

POINTS OF AUTHORITY (continued)

- 21 - Uniform Commercial Code ARTICLE 3, PART 3 § 3-305
and NRS 104.3305 UCC Code adopted by State of Nevada
(A),(b)(1),(i),(ii),(iii),(iv),(2),(3),(b),(A),(1),(a),(2),
(a),(3),(c),(d)
- 22 - Truth in Lending Act - Regulation Z and also No Disclosure
- 23 - Constitutional Laws - 1st Amendment ,4th Amendment and
14th Amendment
- 24 - Contract Laws - No contract, no disclosure, no consideration,
Misrepresentation and Fraud - Violation of
USC 15 Section 1692(g) failure to validate
- 25 - Civil Laws -COMMON LAWS - Harassment , Bad Faith,
impeding due process of law
- 26 - VIOLATIONS OF Federal Fair Billing Act Law
- 27 - VIOLATIONS OF Federal Fair Debt Collection Act
- 28 - VIOLATIONS OF Federal Fair Credit Report Act
- 29 - Illegal Unjust Enrichment via Ultra Vires
- 30 - Breach Of Fiduciary Duties
- 31 - UCC 3 104
- 32 - Nevada NRS title 55 Chapter 668
- 33 - NRS 15.010 Verification of pleadings (Nevada State)
- 34 - Title 12 USC 227.13
- 35 - Title 12 USC Vol 3 Parts 200 - 220
- 36 - Title 12 USC Sec 1955
- 37 - Title 15 USC 1681s-2(b)(1)
- 38 - Standards For Motion To Dismiss - See Decisions
- 39- Credit and Banking Laws Regulation AA
- 40 - Bill of Rights

POINTS OF AUTHORITY (continued)

- 41 - Banks and Banking Title 12 Chapter V Part 563c Subpart A Sec 563c.1
- 42 - BPub 621 - Richard Shell Professor of Legal Studies and Management - FRAUD
- 43 - The World Bank Group 1.15
- 44 - Title 18 Section 1001
- 45 - Title 42 USC Chapter 20 Chapter 20A
- 46 - Title 42 USC Chapter 21
- 47 - Title 42 USC Chapter 21A
- 48 - Title 42 USC sec 4003
- 49 - VIOLATION OF HARASSMENT LAWS
- 50 - Constitutional Law Article VI , Clause 2
- 51 - Illegal Third Party Involvement; Federal Fair Billing Act and Federal Fair Debt Collection Act
- 52 - VIOLATING COMMON LAW COPYRIGHT LAWS
- 53 - Plaintiff has failed to produce or provide evidence that their violations of laws is disputed BY PLAINTIFF.
- 54 - Plaintiff has failed to produce any legal evidence and proof of claim/s.
- 55 - VIOLATION OF CIVIL RIGHTS LAWS
- 56 - Plaintiff's Failure to Respond to dispute of Defendant
- 57 - Plaintiff's Failure to Respond to Default Notice of Defendant
- 58 - Plaintiff's Failure to Respond to Late Payment Notice given by Defendant
- 59 - Violation of Nevada Supreme Court Rules and Federal Laws (Nevada Law)
- 60 - UCC Article 1 Part 2 , 1-201 violations by Plaintiff
- 61 - Breach of Contracts by the Plaintiff
- 62 - Punitive Damages Act violations by Plaintiff

POINTS OF AUTHORITY (continued)

- 63 - *Federal Laws over State Laws - Plaintiff has violated both Federal and State Laws*
- 64 - *Commercial Laws - AFFIDAVITS - Plaintiff has violated these laws*
- 65 - *Fraud - UCC Laws - RICO Laws - NRS 104 - cam of Plaintiff (Federal and Nevada State Laws)*
- 66 - *Federal Rules of Civil Procedure - Rule 41 - Dismissal 2 (b)*
- 67 - *First Amendment of the Constitution in part.*
- 68 - *Fourth Amendment of the Constitution in part*
- 69 - *Plaintiff Proven Failures to validate, contract Fraud and illegally filed lawsuit*
- 70 - *Plaintiff's violations of Public Laws Section 162, 161(a) and others*
- 71 - *Plaintiff Misrepresentations of Contract and violations of GAAP Principals, UCC*
- 72 - *Bills of Credit are illegal - Extortion and Mail Fraud - RICO Law Violations*
- 73 - *U S Codes - Copy Rights Section 1114 (1) (a) - Plaintiff's Fraud is Deception*
- 74 - *U S Codes - Copy Rights Section 1125(1)(A)- Plaintiff's Fraud is Deception*
- 75 - *Bill of Rights - Amendment I, Amendment VI - Right to counsel*
- 76 - *Plaintiff has violated Fed. Civ Rule 37 by failure to provide signed Affidavit under oath with penalty of perjury*
- 77 - *Plaintiff's Mail Harassment - Decisions and Laws*
- 78 - *Plaintiff violation of Nevada Law CHAPTER 600 TRADE-MARKS, TRADE NAMES AND SERVICE MARKS GENER*

POINTS OF AUTHORITY (continued)

AL PROVISIONS and No Usury law in Nevada for Interest rates charged (Nevada Law)

79 - Nevada NRS 200.571 Harassment: Definition; penalties.

80 - Plaintiff's violation for Non Payment of Debt on Contract " Special legal Notice" owed to Defendant.

81 - Plaintiff Failure to Sign Affidavit " Affidavit Required for validation.

82 - Relief - Fraud - Contract - Affidavit

83 - Plaintiff's violation of Federal Rules of Civil Procedure Rule 11 after filing illegally filed lawsuit

84 - False Reports - violation of NRS 207.280

85 - AUTOMATED TRANSACTIONS - Nevada NRS 719.310

86 - ELECTRONIC TRANSACTIONS (UNIFORM ACT) NRS 719.320

87 - U S Secret Service and Las Vegas Police Record of event. Federal Violation False Claim Act

88 - Plaintiff's Failure to follow US Secret Service directive to stop contacting Defendant.

89 - Evidence Tampering

90 - Filing illegal Extortionate Lawsuits against Federal Laws

90 - Filing False Look alike Documents

91 - The Nevada State Courts have Failed to Administer Federal Laws

92 - Violation of code of ethics for attorneys on state and National levels.

It is estimated that Plaintiff has incredibly violated well over 300 separate Statues and Laws on the Federal Level and State Level.

It is not the duty of the Defendant to prove Plaintiff has violated *RICO Laws*, indication alone is adequate of the Defendant for the Government to pursue prosecution of the Plaintiff in these matters.

xv

Statues and Constitutional Provisions

- 1 - Violations of Due Process Clause**
- 2 - Violations of illegal search and seizure attempt**
- 3 - Violations of equality and justice**
- 4 - *Constitutional Law Article VI , Clause 2***
- 5 - *1st Amendment , 4th Amendment and 14th Amendment***

Secondary Sources

- 1 - Letters from the Federal Trade Commissions Attorney's Office attached as Exhibits**

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Original Extortionist Lawsuit Summons Filing in Nevada District Court	Exhibit Index Table

United States Court of Appeals
For the Ninth Circuit

Filed Nov 23, 2004 a
FILED / STAMPED 2005 Jan 24

No 04-17048
D.C. # CV -04-00987-RCJ

FIRST NATIONAL BANK OF OMAHA, PLAINTIFF
XENIA GUAM, DEFENDNAT, APPELLANT

ORDER

BEFORE: LEAVY, McKEOWN, BERZON, CIRCUIT
JUDGES

A review of the records demonstrates that this court lack jurisdiction over this appeal because the order challenged in the appeal is not reviewable. See 28 U.S.C. 1447(d), Kunzi v Pan American Airways Inc, 833 F.2nd 1291 (9th Circuit 1987)(order remanding for lack of federal jurisdiction is not reviewable).

Consequently, this appeal is dismissed for lack of jurisdiction.

Attest
CATHY CATTERSON, CLERK OF COURT
DATED 1/18/05

EXHIBIT 3

United States Court of Appeals
For the Ninth Circuit

Filed and Time Stamped 2005 Jan 24

No 04-17048

D.C. # CV -04-00987-RCJ

FIRSTNATIONAL BANK OF OMAHA, PLAINTIFF
XENIA GUAM, APPELLANT
QI Y GUAM, DEFENDANT

ORDER - JUDGMENT

Appeal from the United States District Court for the District
of Nevada (Las Vegas).

On Consideration whereof, it is now here ordered and
adjudged by this Court, that the appeal in this cause be,
and herebyis **DISMISSED** for lack of jurisdiction.

Filed and entered Tuesday, November 23, 2004

Attest

CATHY CATTERSON, CLERK OF COURT

DATED 1/18/05

EXHIBIT 3E

United States District Court - District of Nevada

Filed 2005 Jan 25 and Time Stamped P 6:11

D.C. # CV 04-00987RCJ

USCA No 04-17048

FIRST NATIONAL BANK OF OMAHA, PLAINTIFF
XENIA GUAM, DEFENDANT, APPELLANT

ORDER ON MANDATE

The above entitled cause having been before the United States Court of Appeals for the Ninth Circuit, and the Court of Appeals issued its mandate that this appeal is dismissed for lack of jurisdiction, and the Court being fully advised in the premises, **NOW THEREFORE, IT IS ORDERED** that the mandate be spread upon the records of this Court.

Dated this 25th day of January 2005 (hand dated)

Signed
Robert C Jones
United States District Judge

Additionally included as

EXHIBIT 5

3 a

STATEMENT OF FACTS

On or about October 17, 2003 the Appellant, Defendant known as, XENIA C GUAM © notified the Appellee, Plaintiff. FIRST NATIONAL BANK OF OMAHA by Certified Mail that one account was disputed for the amount indicated as owing.

The Appellant, Defendant further asked for and *Affidavit* under oath as to who the Original Creditor is.

This is permissible under *Federal Statutes and the Fair Credit Billing Act*.

The Appellee, Plaintiff. FIRST NATIONAL BANK OF OMAHA began and endless period of total silence of Acquiescence and would not comply with the Federal Laws and Statutes and would not and did not mail to the Appellant, Defendant the requested *Affidavit* to validate and verify who the Original Creditor is.

This is a violation of a *Federal Statutes, Acts and Laws*.

The Appellee, Plaintiff illegally hired collection attorneys during this disputed period of time and letters from these collection attorneys were received in December of 2003 during the Federally allotted period of time in *Federal Regulations of the Fair Credit Billing Act*.

This is a continued violation of a *Federal Statutes, Acts and Laws*.

Their letters were responded to in Dispute and again and *Affidavit* was requested of the collection attorney firms as to who the Original Creditor is. The Attorney collection firms did not respond to this request.

Due to this callous lack and Disrespect of *Federal Statues, Acts and Laws* by a National Bank and a Licensed Attorney firm, it will become clear to this U S Supreme Court that violations of the innumerable laws listed as violated by the Appellee, Plaintiff and their attorneys in the herein listed Points of Authorities is there daily common practice. Their Fraud, Deceptions Misrepresentation and Non Disclosure and *Ultra Vires* are clear through only actions the Plaintiff themselves have perceived and pursued and practiced.

Approximately, in February of 2004 The Appellee, Plaintiff though their attorney's filed a *EXTORTIONATE Lawsuit* against The Appellant, Defendant in a Nevada State Court. This is highly illegal as the *Fair Debt Collection Act* specifically states that all collection activity must cease until the debt is validated and verified as to whom the Original Creditor is by the collection agent. Upon

advised of and attorney The Appellant, Defendant filed a Petition for Removal to a Federal Court and then additionally filed Answers and a Counter Claim in the Nevada Court and the Federal Court. The Nevada State Court denied the Petition for Removal to a Federal Court without reason and further dismissed The Appellant, Defendant Counter Claim for \$ 1.5 million dollars.

At this time, one of The Appellee, Plaintiff/s though their attorney's filed a *False Claim Report* with the U S Secret Service Department. This Defaming report of extortion and mail fraud that additionally involved the Las Vegas Police Department was quickly dropped by the U S Secret Service when they found out that The Appellee,

Plaintiff though their attorney's had lied about the circumstances to the U S Secret Service. This action by The Appellee, Plaintiff and their attorney's is additionally in violation of *Federal Statues, Acts and Laws, The Harassment Act* and the *False Claim Act* and *U. S. Treasury Department Regulations*.

During this entire period of time one of The Appellee, Plaintiff/s made numerous daily harassing phone calls to The Appellant, Defendant . The Appellant, Defendant had requested no telephone calls be made in a Certified mailing dated in October of 2003 to The Appellee, Plaintiff . This is a violation of *Federal Law, specifically U S Title 47 sec. 227*. Additionally, this violation mandates exclusive jurisdiction to a Federal Court.

ARGUMENT

THE NINTH CIRCUIT ERRED IN not recognizing these Federal violations and for claiming lack of jurisdiction. THE DISTRICT COURT AND THE NINTH CIRCUIT ERRED IN CITING LACK OF JURISDICTION which comes under the following applicable conditions

1 - Rule 12 (b)(6)(c) and Rule 56

2 - Rule 28 USC Part IV Chapter 85 sec. 1332

3 - U S Title 47 sec. 227 - exclusively mandate only Federal 3 Court Jurisdiction

4 - All other items in Points of Authorities

ARGUMENT

THE PETITIONER IS Not Protected Under the Due Process

Clause of the United State Constitution.

The Order of Denial of Appeal by THE NINTH CIRCUIT allows the errors made by Federal Judge Robert C Jones to stand for remand of these Federal Cases to a lesser State small claims court that has already shown it's callous disregard for *Federal Statues, Acts and Laws*. This eliminates the *due process rights* and all defenses of the Appellant, Defendant. Additionally this eliminates the *Key Federal Witness of the U S Treasury Department* and the U.S. Secret Service Department for Appellant, Defendant's defense.

ARGUMENT

Federal Statues and Laws violated were ignored by Federal Judges as set forth by this SUPREME COURT'S precedents as outlined in the Table of Authorities and Points of Authorities and Exhibits contained herein.

ARGUMENT

STATE COURTS ERRED AND IGNORE AND FAIL TO ADMINISTER *FEDERAL STATUES AND LAWS*.

Federal Law preempt State Laws for the protection of *Constitutional Rights and Federal Statues, Acts and Laws* that can not be administered on the State level. This lower State Court clearly has shown it's color in disregard of citizens Constitutional Rights and protection and due process and disregard of *Federal Statues, Acts and Laws*. This State small claims court was reprimanded by the Nevada Supreme Court for having the audacity to not even allow jury trials. Clearly this Court system has problems with Constitutional

Rights and laws in general.

This court gave no reason for not allowing these extortionate based cases to be transferred to a Federal Court.

ARGUMENT

THE DISTRICT COURT AND THE NINTH CIRCUIT ERRED IN FAILURE TO ADMINISTER FEDERAL; STATUES AND LAWS CITED. Innumerable Federal laws and State laws have been violated by The Appellee, Plaintiff and their attorney's as outlined in the Points of Authorities herein and the Federal Judges failures to administer these laws in a timely fashion is a dishonor to the oath every Federal Judge must take.

ARGUMENT

THE DISTRICT COURT FAILED AND ERRED TO ADMINISTER IT'S OWN COURT ORDERS AND THE NINTH CIRCUIT ERRED BY NOT ADMINISTERING THOSE SAME ORDERS.

U S District Court Judge Robert C Jones issued *Several Rule 56 Orders* that The Appellee, Plaintiff and their 5 attorney's failed to comply with within the required time.

ARGUMENT

The Ninth Circuit's approach directly conflicts with decisions by THE UNITED STATES SUPREME COURT'S DECISIONS. The cases cited in the Table of Authorities and Exhibits herein clearly shows that these cases are properly in the jurisdiction of the Federal Courts. Additionally Cer

tain Federal Statues, Acts and Laws are clearly mandating jurisdiction exclusively to a Federal Court of these cases. The Points of Authorities showing violations by the Appellee, Plaintiff and their attorney's clearly mandates Federal Jurisdiction.

The NINTH CIRCUIT FURTHER ERRED BY IGNORING *Federal Rules of Evidence Federal Rules of Civil Procedure, Uniform Commercial Code, United States Code, Fair Debt Collection Practices Act, Fair Credit Billing Act, Fair Credit Reporting Act, Truth in Lending Act, Consumer Credit Protection Act, Ultra Vires, False Claim Act and Rico Laws*

ARGUMENT

Single Case cited by The NINTH CIRCUIT for denial of Appeal is further in error as that cited case has been used against *Federal Statues and Laws*. The case cited by the Ninth Circuit has been inappropriately misused, specifically cited, See 28 U.S.C. 1447(d); *Kunzi v. Pan American Airways, Inc.*, 833 F.2d 1291 (9th Cr.

1987) (*order remanding for lack of federal jurisdiction is not reviewable*). Clearly the intent of this case is for cases without Federal Question or diversity and the use thereof is improper and has no bearing on these cases as errors have been made in not admitting *Federal Questions and Diversity* do indeed exist in abundance and are clearly cited in the Tables of Authorities and Points of Authorities and Exhibits contained herein.

Additionally, The Sixth Circuit determination that the district court exceeded its authority under 1447(c) also resolves the issue of our jurisdiction to review the remand order. See *FMC Corp.*, 208 F.3d at 448 ("The threshold jurisdictional issue cannot be separated from the merits of the defendants' challenge; our analysis of the relevant statutory provisions both supports our jurisdiction and compels our conclusion that the District Court exceeded its authority in entering the remand orders. For the foregoing reasons, we reverse the district court's order remanding the case to the Florida court, and remand the case for further proceedings.

REVERSED AND REMANDED

Additionally, the provisions of 28 U.S.C. 1447(c) "this court is only required to remand if it lacks subject matter jurisdiction. See 28 U.S.C. 1447(c)" Clearly, subject matter exists.

Additionally, Sec. 1443. Civil rights cases. Any of the following civil actions or criminal prosecutions, commenced in a State court may be removed by the defendant to the district court of the United States for the district and division embracing the place when it is pending:

- (1) Against any person who is denied or cannot enforce in the courts of such State a right under any law providing for the equal civil rights of citizens of the United States, or of all persons within the jurisdiction thereof;
 - (2) For any act under color of authority derived from any law providing for equal rights, or for refusing to do any act on the ground that it would be inconsistent with such law.
- Additionally,

Where, as here, all federal-law claims in the action have not been eliminated. Further, Petitioner removed the case from state court to the United States District Court for the District of Nevada under 28 U.S.C. 1441(a), which allows a defendant to remove an action that falls within the original jurisdiction of the federal district courts. Petitioner stated that the entire lawsuit fell within the original jurisdiction, [484 U.S. 343, 346] and hence within the removal jurisdiction, of the District Court because the complaint stated a claim arising under the *Federal Fair Billing Act and Federal Fair Debt Collection Act and Federal Fair Reporting Act* and subsequently under the *False Claim Act* and for violations of *Rico Laws* and all additional items listed in the Point of authorities contained here

in. The NINTH CIRCUIT FURTHER ERRED BY failure to allow subject matter to be considered and by disallowing *Federal Questions and Diversity* to be and issue of jurisdiction.

ARGUMENT

Violation of *Federal Statues and Laws* by Plaintiff have permitted Plaintiff to file and pursue and EXTORTIONATE LAWSUIT with the assistance of the Federal Courts. Appellant, Defendant was not protected under Federal Law by the Federal Court System and deprives the Appellant, Defendant of due process under the laws and *Constitutional Rights* of the United States. The NINTH CIRCUIT DISALLOWS CRUCIAL FEDERAL WITNESS TESTIMONY

The Appellant, Defendant has a valid claim against the

Appellee, Plaintiff and their attorneys for violations of *Federal Laws, Harassment, and False Claims to a Government Agency*, the U S Secret Service. The Federal Courts have eliminated this *Key Witness* and the Witness is immune from testifying in a State Court, therefore, the Appellant, Defendant is left without and important integral part of defense.

ARGUMENT

The NINTH CIRCUIT IGNORES FEDERAL STATUES AND LAW THAT MANDATE CASE MUST BE HEARD EXCLUSIVELY IN A FEDERAL COURT. Cases that involve Federal Statues are regarded as cases that have Federal Questions and proper jurisdiction is a Federal Court. Cases that involve matters that are exclusive to only the jurisdiction of a Federal Court have precedent and must be heard in a Federal Court and not remanded to a lesser court. The Appellant, Defendant has provided this U S Supreme Court with clear proof that the Ninth Circuit was in error in stating that they could not review the case because it was not reviewable and therefore, they lacked jurisdiction. The Points of Authority and Exhibits clearly shows the issues and *Federal Questions* and as cited in the example of *U S Title 47 sec 227* which clearly mandates these cases to be heard exclusively only in a Federal Court.

Additionally, and ironically, the following excerpt is from the Ninth Circuit and fully and wholly contradicts their decision to deny this Appeal made by this Appellant, Defendant; A dispute about a material fact is

genuine if "there is sufficient evidence favoring the nonmoving party for a jury to return a verdict for that party. *Id.* At 249. If the evidence is merely colorable or is not significantly probative, summary judgment may be granted. *Id.* At 249-50. In a civil case, the question is: "whether a fair-minded jury could return a verdict for the plaintiff on the evidence presented." *Id.* at 252. "The mere existence of a scintilla of evidence in support of the plaintiff's position will be insufficient; there must be evidence on which the jury could reasonably find for the plaintiff." *Id.* The moving party need not disprove matters on which the opponent has the burden of proof at trial.

Celotex v. Catrett, 477 U.S. 317, 322 (1986) Thus, summary judgment is proper if the non-moving party fails to make a showing sufficient to establish the existence of an essential element of their case on which they will bear the burden of proof at trial. *Id.*; See also *High Tech Gays v. Defense Indus. Sec. Clearance Office*, 895 F.2d 563 (9th Cir, 1980) . . . (note the , 9th Cir, 1980)

ARGUMENT

Failure to Provide Proof of Claim Required by Federal Law and Federal Court Order.

The Appellee, Plaintiff and their attorneys failed to comply with *Court Orders invoking Rule 56 and Federal Laws and Acts and Statutes* cited herein.

By Law, if the Appellee, Plaintiff failed to respond with proof of claim then the Appellant, Defendant must be awarded Counter Claim as requested as a matter of

law. There is no legal standing for the Appellee , Plaintiff who violated Federal Laws to file and *Extortionate Lawsuit* and that further can not produce one shred of evidence to support their claim/s in the invalid filed law suit.

ARGUMENT

The NINTH CIRCUIT IGNORES FEDERAL STATUES AND Constitutional Rights of Appellant, Defendant. Clearly the Defendant has been stripped of *Constitutional Rights* by the Federal Courts for allowing and *extortionate lawsuit* to be filed in violation of *Federal Statues* by the Appellee, Plaintiff and their attorneys. This is not equal justice under Constitutional rights to allow and *extortionate lawsuit* filed illegally against *Federal Statues* to be continued.

ARGUMENT - Judicial Notice

Special Notice; This case was joined with another case by the United State District Court - District of Nevada by Federal Judge Robert C. Jones, that was also filed by the Appellant, Defendant with the United States District Court as a separate case. Judge Robert C. Jones combined the cases for his scheduled Oral Arguments and ultimate decision to remand both cases to the separate State Courts, although, the separate state courts were never mentioned and both are in different types of State Courts. This was done even though the Appellant, Defendant request that Oral Arguments are not needed due to the violations of *Federal Statues* by the Appellee, Plaintiff, and that, that issue should be resolved by the Court prior to any

further proceedings or Oral Arguments and further, that, The Federal Court had already invoked a *Court Order for Rule 56* to be complied with. This Court Order was given to both separate Appellee, Plaintiffs and their attorneys on more than

one occasion..This caused the Appellant, Defendant to file Separate Appeals with the Ninth Circuit for the two (2) separate and individual cases.

Both Cases are based on Clear *Federal Questions* (30 plus Federal Questions were presented to the United States District Court - District of Nevada and to the Ninth Circuit in Both cases) and further based on *Federal Diversity* which was not contested or and issue at the Oral Arguments in either case.

As both cases are separate and individual, the combining of the two (2) separate cases for the specific reasoning to remove them from a Federal Court once again deprives the Appellant, Defendant the *Constitutional Rights* of due process on these two (2) separate and individual cases and literally railroads the Appellant, Defendant in to a non defensible position.

The United States District case numbers and corresponding Ninth Circuit Case numbers are given;

1 - CITIBANK SOUTH DAKOTA

DISTRICT COURT CASE NUMBER CV-5-04-0988-

RJC and NINTH CIRCUIT CASE NUMBER USCA NO 04-17117

2 - FIRST NATIONAL BANK OF OMAHA

DISTRICT COURT CASE NUMBER CV-04-0987-RJC and

ARGUMENT

Ultra Vires exist in abundance and listed herein are quotes from United State Supreme Court Justices in regards *Ultra Vires* and are associated with cases listed herein in the Table of Authorities and Exhibits. Failure of Both of the Appellee, Plaintiffs and their attorneys to provide proof of their debt claims and their extortionately illegally filed lawsuits give clear proof of the *Ultra Vires*., extortion and illegality of their filings. SEE 25 U S Supreme Court Citing in EXHIBITS .Sections

ARGUMENT

1 - Can Federal Judges claim that *Federal Statues* are not a *Federal Questions* or ignore the fact that *Federal Statues* are a *Federal Question* ?

"The Supremacy Clause of the United States Constitution, Article VI, Clause 2, invalidates state laws that interfere with or are contrary to federal law." Syl. pt. 1, Cutright v. Metropolitan Life Ins. Co., 201 W. Va. 50, 491 S.E.2d 308 (1997).

2 - Can a Federal Appeals Court claim that and Appeal made based on Federal Questions and Federal Diversity can not be Reviewed ?

By violating the Federal laws as set forth herein, the Plaintiff Appellee have acted arbitrarily and capriciously and not in accordance with law, and without observance of procedure required by law, in violation of (((5 U.S.C. 706(2)(A) and 706(2)(D).))) and all cited items in the Points of Authority contained herein

3 - Can a Petitioned Federal Case be remanded to a State

Court that has already ignored all Federal Statutes and that further failed to administer Federal Statutes ? *"The Supremacy Clause of the United States Constitution, Article VI, Clause 2, invalidates state laws that interfere with or are contrary to federal law."* Syl. pt. 1, *Cutright v. Metropolitan Life Ins. Co.*, 201 W. Va. 50, 491 S.E.2d 308 (1997).

4 - Can Federal Courts deprive any United States citizen that is not incarcerated or guilty of any crimes of their Constitutional Rights and protection under all Federal Statutes ? Constitution of the United States of America and Rule 12(b)(6) is essentially a ruling on a question of law. *North Star Inter'l. v. Arizona Corp. Comm.*, 720 F.2d 578 (9th Cir. 1983) For a defendant-movant to succeed, it must appear to a certainty that a plaintiff will not be entitled to relief under any set of facts that could be proven under the allegations of the complaint. *Halet v. Wend Investment Co.*, 672 F.2d 1305 (9th Cir. 1982)

Both Plaintiffs and their attorneys have failed to provide proof of claim/s since October 17, 2003

5 - Is it the duty of the Federal Courts to uphold and Administer all laws in regards Federal Statutes ?

Every Federal Judge takes an oath of office to uphold all Federal Laws and the Constitution of the United States.

6 - Will the Federal Courts deprive a United States Citizen from reporting and filing a Petition of Rico Law violations against citizens of the United States ?

The Supreme Court found that the Plaintiff in a civil RICO action need establish only a criminal "violation" and not a criminal conviction. Further, the Court held that the Defendant need only have caused harm to the Plaintiff by the commission of a predicate offense in such a way as to constitute a "pattern of Racketeering activity." That is, the Plaintiff need not demonstrate that the Defendant is an organized crime figure, a mobster in the popular sense, or that the Plaintiff has suffered some type of special Racketeering injury; all that the Plaintiff must show is what the Statute specifically requires. The RICO Statute and the civil remedies for its violation are to be liberally construed to effect the Congressional purpose as 15 broadly formulated in the Statute. *Sedima, SPRL V. Imrex Co.*, 473 US 479 (1985).

7 - Does the Federal Court permit *Ultra Vires* to be committed by any institution regulated by the U. S. Treasury Department ?

"Mr. Justice Marshall said: The doctrine of *ultra vires* is a most powerful weapon to keep private corporations within their legitimate spheres and to punish them for violations of their corporate charters, and it probably is not invoked too often . . . *Zinc Carbonate Co. v. First National Bank*, 103 Wis 125, 79 NW 229." 21 *American Express Co. v. Citizens State Bank*, 194 NW 430.

8 - In the event of issues where errors are made or cases cited or not applicable does a Federal Judge have the right to ORDER that a case is not review able based on those errors made by Federal Judges ?

Federal-law claim providing the basis for removal have not been eliminated from the suits and any other state claims are pendant to these Federal Law violations.

9 - At issue; is it the sworn duty and obligations of Federal Judges to administer and uphold Federal Laws and Statues and to protect the Constitutional Rights of United States Citizens.

What is the purpose of any law if it is not administered in a manner intended. The Constitution is based on equality and not who is rich and who is not.

10 - Can a Federal Judge Order that all records are moot and further make an *Order on Mandate* of all court records when errors have been made in the administration of Federal Statues and Laws by Federal Judges in and effort to hide and quash those errors made. This is exactly what is being attempted in regards these cases and to deprive the Appellant Defendant of *Constitutional Rights* and making the Appellant, Defendant *subject to a lack of defense and protection of Federal Laws*. Appellant, Defendant Is Not Protected Under the *Due Process Clause of the United States Constitution*.

Clearly Federal Questions exist.

1 - Rule 28 USC Part IV Chapter 85 sec. 1332 Defendant's Cited law for Removal of both of Appellee, 22 Plaintiff's cases to the U S District Court 2 - Rule 12 USC (b)(1)(2)(3)(6) and Rule 12 USC (b) Rule

56 Defendant's Cited law for Removal of both of Appellee, Plaintiff's cases to the U S District Court. Rule 56, Additionally Deals with *bad faith and Fraudulently filed lawsuits*.

3 - Appellee, Plaintiff violation of U S C Title 47 Section 227 violations of *Telephone usage*. Appellant, Defendant's Cited law for Appellee, Plaintiff (CITIBANK

SOUTH AKOTA) violations. This law as cited mandates that these types of cases be heard exclusively in Federal Court. *FIRST NATIONAL BANK OF OMAHA* was included.

4 - Appellee, Plaintiff's failure and violation of the entire *Federal Fair Billing Act* and failure to provide "Affidavit" requested to verify and validate debt since October of 2003 till the present dating.

5 - Appellee, Plaintiff and Appellee, Plaintiff's attorney debt collectors are in violations of the *Federal Debt Collection Act-U S Codes Title 15 Section 1692(g)* Appellee, Plaintiff and Appellee, Plaintiff's attorney debt collectors have not provided the required validation and verification by affidavit as required by law and further Appellee, Plaintiff's debt collectors failed to cease all debt collection activity until such *affidavit* is provided to the consumer , that is, the Appellee, Plaintiff herein continued their debt collection activities by illegally filing separate lawsuits against the Appellant, Defendant in the Nevada Court Systems for the collection of a alleged and unproven debt claimed by each separate Appellee, Plaintiff lawsuit/s.

6 - Appellee, Plaintiff's violations of the *Federal Debt Collection Act Section 809 and U S Codes Title 15 Section 1692 (all subsections)* is continued by both Appellee, Plaintiff's illegal abusive, malicious harassments of the Defendant and by further defaming the Defendant to Public Agencies (Court Systems are Public Agencies)

These violations have done irreparable damages to the balance of the Appellant, Defendant's life and is in violation of *Constitutional Rights*

7 - Appellee, Plaintiff and Appellee, Plaintiff's attorneys are charged with illegal filing of a Lawsuit against the Appellant, Defendant prior to providing the Appellant, Defendant the required *affidavit* validating and verify the alleged debt and additionally in violation of *The Civil False Claim Act [empha sized]* This is further a clear violation of the Appellant, Defendant *Constitutional Rights; The Bill of Rights and the 13th and 14th Amendments*

8 - Appellee, Plaintiff/s (CITIBANK SOUTH DAKOTA) Violations of *Civil False Claim Act* and the *Fair Debt Collection Act and U S C Title 15 Section/s* by falsely reporting to the U S Secret Service and subsequently the Las Vegas Police Fraud Department that the Appellant, Defendant was guilty of Extortion and Mail Fraud after illegally filing a lawsuit against the Appellant, Defendant.

Clearly the U S Secret Service is now a *KEY Witness* on behalf of the Appellant, Defendant and ALL Courts were informed. Federal Court controls this *key witness*.

9 - U S Secret Service and the Las Vegas Police Fraud Department were at the residence of the Xenia, that is the Appellant, Defendant with probable intent to arrest the Appellant, Defendant and seize evidence held by the Appellant, Defendant against the Appellee, Plaintiff. This is a violation of the Appel

lant, Defendant's *Constitutional Rights* by the Appellee, Plaintiff for attempt at possibly falsely arresting the Appellant, Defendant and for possible illegal search and seizure and for Abusive Malicious Harassment and wrongful trespass based on a false report made by Appellee, Plaintiff (

CITIBANK SOUTH DAKOTA).The U S Secret Service and the Las Vegas Police were at the residence of the Appellant, Defendant on the evening, 8: 10 pm of April 1, 2004. This is recorded by evidence. FIRST NATIONAL BANK OF OMAHA was included in the same case in *Oral Arguments*.

10 - Appellee, Plaintiff's violations of *Title 15 USC Section 1666a. (a),(b),(2)* This was clearly cited in Appellant, Defendants filings.

11 - *USC 28 Sec 1343 (a)(1)(2)(3)(4)* Both Appellee, Plaintiff's attorney debt collector were allowed by the Nevada Courts to illegally file separate lawsuits against the Appellant, Defendant against *Federal Law U S C Title 15 Section 1692 and all subparts* there of and *specifically Section 1692(g)*. This clearly involves Appellant, Defendant's *Constitutional Rights* and the Appellant Defendant has properly addressed the U S District Court for protection and for the legal administration of *Federal Laws* involving both of these separates cases.

12 - Appellee, Plaintiff's violation of *U S C Title 28 USC 1441, (a)(b)(c)* Clearly due to diversity and *Federal Question of Jurisdiction and USC Title 28 1343(1)(1)(2)(3)(4)* Judge Robert Jones can not use *USC*

Title 28 Section 1441 (c) as USC Title 28 Section 1343(1)(1)(2)(3)(4) clearly supercedes this vague area and further all other cited *Federal Laws* as well supercede this particular matter. Again, Judge Robert Jones attempts to remand both Appellee, Plaintiff's cases to Nevada State Courts infringe on the *Constitutional Rights* of the Appellant, Defendant and is ethically immoral and unjust and does not

give the Appellant, Defendant equal protection under the law and a clear attempt by this Judge to attempt to manipulate the Federal laws in a manner harmful to the Appellant, Defendant and that further allows Appellee, Plaintiff and attempted escape route that will allow them to violate *Federal Laws* and avoid *Federal Fines* and possible imprisonment and for further illegal *RICO Law* violations cited by the Appellant, Defendant.

13 - Appellee, Plaintiff's violation of *Title 42 USC, 1983*
The Defendant has clearly shown by the evidence that Judge Robert Jones and Appellee, Plaintiff have violated this *Cited Law* and violated this Appellant, Defendant Rights in a malicious and harassing manner that has forced this Appellant, Defendant to file literally thousands of pages of documentation in regards these matters. The Appellee, Plaintiff and now these Judges are violating *Federal Laws* and the Appellant, Defendant's *Rights of equal justice* and of violating the Appellant, Defendant's given *Constitutional and Civil Rights*.

14 - Appellee, Plaintiff is guilty of violations *Title 18 U.S.C. 1964 also 18 U.S.C. 1341, 1343, 1961 and 1962*
2Appellee, Plaintiff has clearly shown violations of *Rico Laws* which is yet another *Federal Question*.

15 - Appellee, Plaintiff is guilty of violations of the *Truth in Lending Act - Regulation Z* and also Non Disclosure as proven by the Defendant and further proven by the Appellee, Plaintiffs failure to provide validation and verification by signed "*Affidavit*" under oath with penalty of per

jury to validate and verify the alleged debt or loan.

16 - Appellee, Plaintiff and Judge Robert Jones violations of Appellant, Defendant's *Constitutional Rights; Bill of Rights*, 13th and 14th Amendment are clearly established by the Appellant, Defendant. Collusion, intended or not and also Conspiracy, intended or not along with the *Federal Laws* that are not being enforced are eliminating all of the Appellant, Defendant's *Legal rights, Constitutional rights and rights of equal justice* and by these flagrant malicious violations have entirely *negated any defense* of the Appellant, Defendant and have completely eliminated the Counterclaim of the Appellant, Defendant. Appellant, Defendant's Counterclaim involves the Appellee, Plaintiff's additional violation of *Common Law Copy Right Laws* and the ownership thereof by the Appellant, Defendant and of violations of the Appellant, Defendant's Registered Trade Name and Trade Mark and all *Laws* pertaining there to that are protective.

17 - Appellee, Plaintiffs violation of *Civil Laws, Common Laws, Harassment Laws and Unclean Hand and Bad Faith* and the illegal filing of lawsuits in violation of *Federal laws* cited are a continual illegal stalling effort that is being OK'd and approved by Judge Robert Jones and is impeding due process of law in U S District Court, which is clearly the correct venue for these cases.

18 - The Appellee, Plaintiff's violations of *Federal Rules of Civil Procedure 1002, 1003*. This U S District Court - District of Nevada specifically uses the *Federal Laws of Civil Procedure*. Appellee, Plaintiffs have violated the Defendant rights in regards the *Federal Fair Credit*

Reporting Act and have further failed to validate or verify any alleged debt claim against the Defendant through *FRCP 1002, 1003*. The claims are being falsely made against the Appellant, Defendant further in violation of the *Civil False Claim Act* and in violation of the Appellant, Defendant's *Constitutional and Civil Rights* for Appellee, Plaintiff's failure to provide proof of claim/s. Yet Judge Robert Jones condones these failures and ignores the laws, as has the Ninth Circuit Court of Appeals.

19 - Appellee, Plaintiffs Failure to respond to U S District Court Orders in *Regards Rule 56* and the failure of Judge Robert Jones to administer and carry those Court Orders out as required by law clearly shows that this Judge, Judge Robert Jones has and will violate the laws and has violated the *Legal and Constitutional Rights* of the Appellant, Defendant completely.

20 - Appellee, Plaintiff's violations of the *Federal Fair Credit Reporting Act* against the Appellant, Defendant is a further violation of Appellant, Defendant's *Federal Law Rights, Constitutional Rights and Civil Rights*.

21 - Appellee, Plaintiff's violations of *USC Title 12 Section 227.13 Under Banking Laws* which is controlled by the US Treasury Department, a Federal Agency, Appellee, Plaintiffs have illegally alleged without proof that the Defendant owes them and alleged debt or loan.

This violation subjects Appellee, Plaintiffs to violations of *Rico Laws for Extortion and the Money Laundering Act* against the Appellant, Defendant and is in violation of the Appellant Defendant's *Constitutional Rights and Civil Rights* and

against *Public laws, Common laws and Federal laws.*

22 - Appellee, Plaintiff's violations of *USC Title 12 Vol 3 Parts 200 - 220 of Federal Regulations* clearly show *Federal Question of jurisdiction* is adequately met as again the Appellant, Defendant's *Federal Rights, Constitutional Rights and Civil Rights* are being violated and additionally, Appellee, Plaintiffs again are in violation of the *Civil False Claim Act* and those violations again are violating the Appellant, Defendant's *Constitutional Rights and Civil rights*. Clear Jurisdiction by *Federal Question*

is met by the Appellant, Defendant.

23 - Appellee, Plaintiff's violations of *USC Title 12 Sec 1955* Clearly Appellee, Plaintiffs have violated *USC Title 15* and are subject further to this *Regulation* which Judge Robert Jones is attempting to evade through his decision to remand Appellee, Plaintiff's case to a State Court. This is yet another violation and now become a *Federal Question* in itself for Judge Robert Jones neglect to *Administer the Federal Laws*. Judge Robert Jones is violating the *Constitutional Rights and Civil Rights and Federal Rights* of the Appellant, Defendant and is clearly not allowing the Appellant, Defendant equal rights under the Federal laws.

24 - Appellee, Plaintiff's violations of *USC Title 15 1681s-2(b)(1)* Again Appellant, Defendant *Constitutional and Civil Rights* are violated by Appellee, Plaintiffs. Judge Robert Jones failure to *Administer his own COURT ORDERS that invokes Rule 56* on Appellee, Plaintiffs is a miscarriage of justice.

25 - Appellee, Plaintiff's violations of *Credit and Banking*

Laws Regulation AA All Banks are controlled by the Federal Government through the U S Treasury Department . Any illegal actions taken by any bank against any United States Citizen in regards Constitutional Rights qualifies and is subject to all Federal laws and Federal Question of Jurisdiction . Banks are Federally regulated.

26 - Appellee, Plaintiff's violation of Banks and Banking USC Title 12 Chapter V Part 563c Subpart A Sec 563c.1 All Banks are subject to GAAP accounting Principals and any violations there in are subject to Federal Laws and SEC Laws if any bank is deemed to be involved in any manner with the SEC as most are. Violation of a Appellant, Defendant's Constitutional Rights and Civil Rights and Rico laws clearly shows that Appellee, Plaintiffs cases must be before a Federal Court and not a State Court. Appellant, Defendant has clearly stated that Appellee, Plaintiffs book-keeping journal entries will be subpoenaed if these matter ever precede to trial. A State Court is not qualified to administer Federal laws in these matters.

CONCLUSION

Therefore, conclusive evidence has been submitted that was ignored that clearly shows and proves that;

- 1 - That Federal Statutes, Federal Fair Debt Collection Act, 1692(g) was violated by the illegally filed extortionate lawsuit that was initially filed prior to the Appellant, Defendant's petition to move the illegally filed lawsuit to Federal Court.*
- 2 - The Appellant, Defendant's Constitutional Rights were*

violated by a Nevada State Court Judge, , US District Court, Nevada Judge and by the Ninth Circuit Appeals Court Judges and by the Appellee , Plaintiff and their attorneys under the 1st, 4th, and 14th Amendments of the Constitution of the United States.

3 - Additional violations *The False Claim Act* and the *Harassment Act* This violates the *Constitutional Rights* of the Appellant, Defendant pertaining to attempts at illegal search and seizures and incarceration covered in the *Constitutional Rights*.

4 - Under *US Code Title 47 Sec 227* and violations thereof that all cases pertaining to this violation are mandated EXCLUSIVELY only to a Federal Court.

5 - The Points of Authorities and Exhibits contained herein contained herein.

6 - Clear evidence supports the *RICO LAW* violations by the Appellee, Plaintiff and ignored by all all Federal Judges.

7 - All Federal Judges listed herein have not supported the U S Supreme Court Decisions and Cases cited herein.

8 - The Counter Claim filed with the Petition to the Federal Court by this Appellant, Defendant clearly gave supportive evidence of violations of *COPY RIGHT Laws*.

9 - Any capable and untainted jury would find that all cited *Federal Statutes and Laws* cited herein were unquestionably violated and proven to be *Extortionate Law Suit* and Riddled with *Ultra Vires* in violation of *Rico Laws*.

10 - The Ninth Circuit Federal Judges have erred in attempting to use 28 U.S.C. , 1447 (d); *Kunzi v. Pan American World*

Airways, Inc. 833 F.2nd 1291 for a reason to claim lack of jurisdiction. this is proven as contradictory as *Federal Questions clearly exist* and any state action is pendant to *Federal Statues*. It is further contradictory to other decisions cited herein by the U. S. Supreme Court and by the other cited Decision of the Ninth Circuit shown herein; "*Celotex v.*

Catrett,

477 U.S. 317, 322 (1986)" and "*High Tech Gays v.*

Defense Indus. Sec. Clearance Office, 895 F.2d 563 (9th Cir, 1980)"

11 - Federal Statues and Laws preempt State laws. That any possible States laws are pendant to *Federal Laws* cited and additionally have already been violated by the Appellee, Plaintiff illegally filed *extortionate lawsuit*.

12 - SEE EXHIBITS FOR this item in CONCLUSION

13 - It has already been shown and proven that State courts will not administer *Federal Laws*.

14 - Proven grounds of *Rico Law* violations by the Appellee, Plaintiff in this matter.

15 - SEE EXHIBITS FOR this item in CONCLUSION

Conclusively, the United States District Court - District of Nevada and the United States Ninth District Court of Appeals have erred in their decision and Orders to remand this case/s for "lack of jurisdiction"

Request of this United States Supreme Court

1 - Relief is sought based on the stated grounds of actions presented herein in the Tables of Authority, Points of

Authority and Exhibits and all other information submitted herein.

2 - That *Court Order of Rule 56* already made be invoked by this U. S. Supreme Court in favor of the Appellant, Defendant. Counter Claim of Appellant, Defendant is filed in both the United States District

Court - District of Nevada and on record with the United State Ninth District Court of Appeals.

3 - That the Court Order of Remand made by Federal Judge Robert C. Jones be remanded, rescinded

and reversed to allow this case to remain in Federal Court.

4 - That the Court Order of Denial of Appeal and Order to Remand made by the United States Ninth District Court of Appeals be remanded, rescinded and reversed to allow this case to remain in Federal Court.

5 - That the Court Order of , Order on Mandate, made by Federal Judge Robert C Jones be remand ed, rescinded and reversed to allow this case to remain in Federal Court.

6 - That the Court Order of the United States Ninth District Court of Appeals barring the Appellant, Defendant to make any further requests of that court be remanded, rescinded and reversed in regards this case.

7 - That this Court administer to the *Rico Law* violations of the Appellee, Plaintiff in this case or alternatively for administration to the proper Federal District Court.

8 - That the Appellee, Plaintiff be barred from filing any further actions against this Appellant, Defendant in any manner that violates any *Federal Laws* or State Laws.

9 - That Oral Arguments be waived and not required as the *Federal Statues and Laws* cited can not be made more verbally decisive than the written versions there of for interpretation by any U. S. Supreme Court Justice or any attorney trying to persuade a Justice to not enforce these *Federal Statues and Laws* for personal reasons of any type.

Further, this will save the U S Supreme Court from wasting time and expenses on inexperienced attorneys efforts trying to manipulate *Federal Laws* and the *Constitution of the United States of America*.

10 - That this U S Supreme Court Order and Mandate that the Appellee, Plaintiff's extortionate lawsuits be *Dismissed With Prejudice* for being improperly filed in violation of *Federal Laws* and additionally for failure to comply with *Court Orders* and additionally for failure to provide the required proof of claim/s by a signed "*affidavit*" under oath with penalty of perjury from only the Appellee, Plaintiff and no other source. Further, that Appellee, Plaintiff be Sanctioned and not allowed to file other lawsuits against this Appellant, Defendant without first providing the required "*affidavit*" required by *Federal Laws* and this Appellant, Defendant.

11 - That this U S Supreme Order the U S Attorney General to initiate action against the Appellee, Plaintiff/s for *Rico Law* violations cited herein and for filing a *False Claim* with a Government Agency (U S Secret Service) under the *False Claim Act* and for *extortion and mail fraud*.

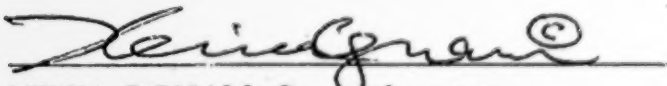
12 - A Subpoena to allow U S Secret Service Agent

This brief and statement was respectfully submitted to the United State Supreme Court and recorded on April 12, 2005 and is now resubmitted in a book format as per request letter from William K Sutter, Clerk, U S Supreme Court Dated April 12, 2005 Case No. (USAP9 No. 04-17048)

Notice of Appeal by WRIT OF CERTIORARI to the United States Supreme Court was filed with the United State Ninth District Court of Appeals and notice sent to all other parties listed herein as respondents.

Due to the plethora of *Federal Laws* violated by FIRST NATIONAL Bank OF OMAHA and by CITIBANK SOUTH DAKOTA apparent redundancy may seem to appear herein. This is created as a violation of one law leads in to a violation of another law and another law and so on. Virtually, these companies have no actual leadership and no one is willing to accept responsibilities on their behalf. They apparently have total disregard for Federal Laws and all other laws and rely on attorney/s to lie for them in a court room/s or use other devious schemes to undermine LAWS. FIRST NATIONAL BANK OF OMAHA has joined forces with CITIBANK and therefore are equally liable for all consequences and subject to the same liabilities.

This brief and statement is respectfully resubmitted as
requested by the Clerks of the U S Supreme Court, Clayton
R Higgins, Jr., and William K Sutter to the United State
Supreme Court in book format
on June 6 of 2005



XENIA C GUAM © , et. al., pro se,
1763 Cherokee Ln,
Las Vegas, Nevada 89109
702-275-2356

INDEX TABLE of EXHIBITS

[EMPHASIS ADDED]

The EXHIBITS and EVIDENCE by DOCUMENT dating and other relevant information herein clearly provide proof of errors by the Federal District Court and the Ninth Circuit Court of Appeals and by all Plaintiff violations of Federal Laws and Clearly establish Diversity and Federal Questions that are applicable in these two separate cases submitted

Exhibit Number

**1 - Federal District Court Order invoking Rule 56 -
FIRST NATIONAL BANK .OF OMAHA**

**2 - Federal District Court Order invoking Rule 56 -
FIRST NATIONAL BANK .OF OMAHA**

3 - Ninth District Appeals Court ORDER of Dismissal

**3A - Evidence of Appeals Court ORDER of Dismissal
error**

**3B - Evidence of Appeals Court ORDER of Dismissal
error**

**3C - Ninth District Appeals Court ORDER Denying
Consideration**

**3D - Evidence of Appeals Court ORDER of Dismissal
error**

**3E - Ninth District Appeals Court ORDER of JUDG
MENT**

**4 - Evidence of Appeals Court ORDER of JUDGMENT
error**

5 - Federal District Court ORDER ON MANDATE

6 - Original Summons to Nevada District Court

6A - EVIDENCE of Violations of Federal Laws

7 - Federal Trade Commission Letter # 1

7A - Federal Trade Commission Letter # 2

7B - Federal Trade Commission Letter # 3

8A - Original Dispute Letter of Defendant, Petitioner

8B - Original Letter from Plaintiff's Attorney Blalock

**8C - Evidence of Violations of Federal Laws by Plain
tiff/s and Plaintiff's attorney/s**

INDEX TABLE of EXHIBITS(continued)

9A - omitted - not used

9B -omitted - not used

9C -omitted - not used

10A - Defendant's Reply Letter to Attorney Blalock

**10B - Evidence of Violations of Federal Laws by
Plain tiff/s and Plaintiff's attorney/s**

10C - omitted - not used

10D - omitted - not used

**11A - Evidence Tampering by Plaintiff/s and Plain
tiff's Attorney/s**

**12A - Citing - Relevant Cases - Ultra Vires - Rico
Law violations, Federal Law Violations by
Plaintiff/s**

**13A - Constitutional Rights violations and Federal
Law violations by Plaintiff/s and errors made
by Federal District Court and Ninth Circuit
Court of Appeals in Failures to Administrate
these Rights and Federal Laws**

- 14A - Citing - Relevant Cases - Ultra Vires - Rico
Law violations, Federal Law Violations by
Plaintiff/s**
- 15A - Evidence and Citing/s Supporting Fact of
of Federal Questions and errors made by the
Federal District Court and the Ninth Circuit
Court of Appeals.**
- 16A - "Affidavit" was Certified mailed to Plaintiff/s
and Plaintiff's attorney/s on several occasions**
- 17A - Liability of Collusion and Conspiracy**
- 18A - Conclusive Evidence of Extortion**

Page 4 of 4 Index of EXHIBITS

INDEX of EXHIBITS

United States District Court - District of Nevada

Filed 2005 Aug 5, 2004

D.C. # CV -04-00987-RCJ

FIRST NATIONAL BANK OF OMAHA, PLAINTIFF
XENIA GUAM, ET AL, DEFENDANT

MINUTE ORDER IN CHAMBERS

REGARDING THE REQUIREMENTS OF

Klingele v. Eikenberry and Rand v. Rowland:XXX

A party or parties have filed a motion to dismiss, motion for judgment on the pleadings, or a motion for summary judgment. These are known as "dispositive motions," for they may terminate either some portion or all of this lawsuit, if granted. This notice is given to all parties to this litigation, and particularly to the party against whom the above referenced motion has been filed, pursuant to the requirements of *Klingele v. Eikenberry*, 849 F.2d 409 (9th Cir. 1988) and *Rand v. Rowland*, 154 F.3d 952 (9th Cir. 1988). Pursuant to Fed. R. Civ.P. 12(b)(6) and Rule 56 allowing 15 days to file points from Aug 12, 2004 ORDER dat.e. Judge Robert C Jones present.

Signed

Lance S. Wilson, Clerk

Robert Johnson, Deputy Clerk

Federal Rule of Civil Procedure 56 is clear and the Defendant Filed requested, however, the Plaintiff/s failed to file anything which they were required to do so as these cases were brought to the Federal District Court by the Defendant Petitioner under and Pursuant to Fed. R. Civ.P. 12)b)(6)(c)and Rule 56.

Rule 56 clearly states a time limit and failure to so respond means the end of the Plaintiff/s case/s and as a matter of law the Defendant is granted it's counter-claim.

The Plaintiff/s failed to respond in any manner in the allocated period of time and failed at any time thereafter to respond.

Judge Robert C. Jones was present and approved this ORDER of the MINUTE ORDER in CHAMBERS.

The attempts to avoid administration of Federal Laws by this Judge and these Plaintiff/s is at best appalling and deceitful and makes a mockery of the US Supreme Courts prior Decisions that were submitted by the Defendant, Petitioner. Further, the Ninth Circuit Court of Appeals is in error for not correcting these injustices.

The further combining of these two separate cases makes each party and accomplice to the other by agreement and a party to collusion..

RULE 56 must be invoked as required by Federal Laws

2 of 2

EXHIBIT 1



United States District Court - District of Nevada

Filed 2005 Aug 5, 2004

D.C. # CV -04-00987-RCJ

FIRST NATIONAL BANK OF OMAHA, PLAINTIFF
XENIA GUAM, ET AL, DEFENDANT

MINUTE ORDER IN CHAMBERS

REGARDING THE REQUIREMENTS OF
Klingele v. Eikenberry and Rand v. Rowland:XXX

Excerpt from page 3 of 4 of the ORDER

[Emphasized]

"The Ninth Circuit Court of Appeals has directed that the following notice be given to you:"

"Federal Rule of Civil Procedure 56 tells you what you must do in order to oppose a motion for summary judgment. Generaally, summary judgment must be granted when there is no genuine issue of materail fact--that is, if there is no real dispute about any fact that would affect the result of your case, the party who asked for summary judgment is entitled to judgment as a matter of law, which will end your case. When ayou are suing makes motion for summary judgmentthat is properly supported by declarations (or other sworn testimony), you can not simply rely on what your complaint says. Instead, you must set out specific facts in the form of admissable

evidence (such as affidavits, declarations, depositions, answers to interrogatories, or properly authenticated documents as provided in Rule 56(e)), that contradict the facts shown in the defendant's declarations and documents and show that there is a genuine issue of material fact for trial. If you do not submit your own evidence in opposition, summary judgment, if appropriate, may be entered against you. If summary judgment is granted, your case will be dismissed and there will be no trial."

Additionally noted;

[Emphasized]

Pursuant to *Fed. R. Civ.P. 12)b)(6)(c)and Rule 56* allowing 15 days to file points from Aug 12, 2004 ORDER date. Judge Robert C Jones present.

Signed

Lance S. Wilson, Clerk

Robert Johnson, Deputy Clerk

Further; The Defendant Petitioner Filed under and Pursuant to *Fed. R. Civ.P. 12)b)(6)(c)and Rule 56*.

This creates and automatic request for summary judgment and as was also requested by this Defendant.

Plaintiff's case is made without any valid proof of claim and therefore is and extortionate lawsuit and without merit and leaves the Plaintiff with no legal standings.

Further any competent jury would have no choice other than rule against the Plaintiff for making a claim with

out proof of claim and that is in violation of the herein stated Federal Laws, Statues and Acts and Rules.

The laws stated and cited herein clearly define what is required to legally provide proof of claim and the Plaintiff/s have failed to provide the proof requested under all cited laws.

The Plaintiff/s have failed to provide proof of claim since October 17, 2003 and have refused to produce or provide and affidavit under oath to verify or validate their claim/s. Additionally, there is no contract written or verbally.

All judges listed herein are in error for failing to administer Federal Laws, Rules, Statues and Acts and for failure to carry out their own given Court ORDERS and have clearly made and attempt to divest the Defendant of any defenses or protections of Constitutional Rights and equal justice and protection under Federal laws.

Rule 56 must be invoked in favor of this Defendant, Petitioner as a matter of law.

United States Court of Appeals
For the Ninth Circuit

Filed Nov 23, 2004 a
FILED / STAMPED 2005 Jan 24

No 04-17048
D.C. # CV -04-00987-RCJ

FIRST NATIONAL BANK OF OMAHA, PLAINTIFF
XENIA GUAM, DEFENDANT, APPELLANT

ORDER

BEFORE: LEAVY, McKEOWN, BERZON, CIRCUIT
JUDGES

A review of the records demonstrates that this court lack jurisdiction over this appeal because the order challenged in the appeal is not reviewable. See 28 U.S.C. 1447(d), Kunzi v Pan American Airways Inc, 833 F.2nd 1291 (9th Circuit 1987)(order remanding for lack of federal jurisdiction is not reviewable).

Consequently, this appeal is dismissed for lack of jurisdiction.

Attest
CATHY CATTERSON, CLERK OF COURT
DATED 1/18/05

EXHIBIT 3

Conflicting Decision by Ninth Circuit Prior to the 1987

Decision

EVIDENCE

A dispute about a material fact is genuine if "there is sufficient evidence favoring the nonmoving party for a jury to return a verdict for that party. Id. At 249. If the evidence is merely colorable or is not significantly probative, summary judgment may be granted. Id. At 249-50, In a civil case, the question is: "whether a fair-minded jury could return a verdict for the plaintiff on the evidence presented." Id at 252. "The mere existence of a scintilla of evidence in support of the plaintiff's position will be insufficient; there must be evidence on which the jury could reasonably find for the plaintiff." Id. The moving party need not disprove matters on which the opponent has the burden of proof at trial. *Celotex v. Catrett*, 477 U.S. 317, 322 (1986) Thus, summary judgment is proper if the non-moving party fails to make a showing sufficient to establish the existence of an essential element of their case on which they will bear the burden of proof at trial. Id.; See also *High Tech Gays v. Defense Indus. Sec. Clearance Office*, 895 F.2d 563 (9th Cir, 1980) . . . (note underlined , 9th Cir, 1980)

Additionally from Page 1 Questions,

4 - Can Federal Courts deprive any United States citizen that is not incarcerated or guilty of any crimes of their Constitutional Rights and protection under all Federal Statues ? Constitution of the United States of America and

Rule 12(b)(6) is essentially a ruling on a question of law. *North Star Inter'l. v. Arizona Corp. Comm.*, 720 F.2d 578 (9th Cir. 1983) For a defendant-movant to succeed, it must appear to a certainty that a plaintiff will not be entitled to relief under any set of facts that could be proven under the allegations of the complaint. *Halet v. Wend Investment Co.*, 672 F.2d 1305 (9th Cir. 1982)

Both Plaintiffs and their attorneys have failed to provide proof of claim/s since October 17, 2003 . **There is No Legal Standing.**

EVIDENCE

Conflicting Decision by Ninth Circuit after the 1987 Decision used.

The 9th circuit has held that one "who submits a false claim for payment may still be liable under the FCA for statutory penalties, even if it did not actually induce the Government to pay out funds or to suffer any loss." *United States v.*

Rivera, 55 F.3d 703, 709 (9th Cir. 1995); *see, also, United States ex rel. Hagood v. Sonoma County Water Agency*, 929 F.2d 1416, 1421 (9th Cir. 1991).

Additionally,

Not allowing any discovery in the face of known violations of law appears to be an abuse of discretion in itself, when the courts must uphold the law.

US v. Walker, 142 F.3d 103 (2nd Cir. 1998) recognizes the Sixth Amendment Right as absolute. See also Title 28 U.S.C. 1654 and *Faretta V. California*, 422 U.S. 806. In *Farnsworth v. Procter & Gamble Co.*, 758 F.2d 1545 (11th Cir. 1985), this Court held that the Federal Rules of Civil Procedure strongly favor full discovery whenever possible! There has been none allowed by the district court yet !

EXHIBIT 3B

United States Court of Appeals
For the Ninth Circuit

FILED JAN 12, 2005

FILED Jan 24, 2005

No 04-17048

D.C. # CV -04-00987-RCJ-

Nevada (Las Vegas)

FIRST NATIONAL BANK OF OMAHA, PLAINTIFF

XENIA GUAM, DEFENDANT - APPELLANT

QI Y GUAM, DEFENDANT

ORDER

BEFORE: LEAVY, McKEOWN, BERZON, CIRCUIT
JUDGES

Appellant's motion for reconsideration of this court's
November 23, 2004 order dismissing this appeal for lack of
jurisdiction is denied.

No motion for reconsideration, rehearing, clarification, stay
of the mandate, or any other submission shall be filed or
entertained in this closed docket.

Attest

CATHY CATTERSON, CLERK OF COURT

DATED Jan 07, 2005

EXHIBIT 3C

EVIDENCE

Conflicting Evidence of dating by the Ninth District clearly shows that the Ninth District is adjusting the books to fit their scheme.

Exhibit 3 clearly shows that their dismissal Order was not recorded and sent to the appellant until Jan 21, 2005, yet, Exhibit 3C clearly shows the Ninth District claims a dating of Nov. 23 , 2005 for their dismissal ORDER, which was approximately 7 days after they received the Appellant's Appeal.

The Court's do not operate that quickly and as well the actual stamped dating is Jan 21, 2005 for Exhibit 3.

Clearly, the Appellant is being coerced against and the dating made by the Ninth District are in conflict with reality. Back tracking to cover up records is not a legal activity.

Additionally,
The Order to Deny Appellant's Motion for Reconsideration was dated on Jan 7, 2005, Exhibit 3C, which again is prior to the Dating of Jan 21, 2005 recorded on Exhibit 3. Further, There is no Time Stamp on Exhibit 3C

This clearly looks like collusion between the Federal Court and the Plaintiff's to quash the Appellant's claims of Federal Court Jurisdiction based on Jurisdiction and Federal Question.

Page 2 of 2

EXHIBIT 3D

United States Court of Appeals
For the Ninth Circuit

Filed and Time Stamped 2005 Jan 24

No 04-17048

D.C. # CV -04-00987-RCJ

FIRSTNATIONAL BANK OF OMAHA, PLAINTIFF
XENIA GUAM, APPELLANT
QI Y GUAM, DEFENDANT

ORDER - JUDGMENT

Appeal from the United States District Court for the District
of Nevada (Las Vegas).

On Consideration whereof, it is now here ordered and
adjudged by this Court, that the appeal in this cause be,
and herebyis **DISMISSED for lack of jurisdiction.**

Filed and entered Tuesday, November 23, 2004

Attest

CATHY CATTERSON, CLERK OF COURT

DATED 1/18/05

EXHIBIT 3E

EVIDENCE

Conflicting Evidence of dating by the Ninth District clearly shows that the Ninth District is adjusting the books to fit their scheme.

Exhibit 3 clearly shows that their dismissal Order was not recorded and sent to the appellant until Jan 21, 2005, yet, Exhibit 3E clearly shows the Ninth District claims a dating of Nov. 23 , 2005 for their JUDGMENT ORDER, which is the same date as the denial of Appeal ORDER claimed and was not recorded until Jan 21, 2005 and then sent to the Appellant.

It is apparent that neither the U S District Court Judge Robert Jones nor the Ninth District Court Judges , Leavy, Mckeown and Berzon ever intended to uphold Federal laws and have attempted through erroneous dating to allow the Plaintiff's, CITIBANK, SD and FIRST NATIONAL BANK OF OMAHA TO BE IN VIOLATION OF FEDERAL LAWS BY SIMPLY IGNORING THE APPELLANT AND ATTEMPTING TO WASH THE ENTIRE MATTER AWAY AND DISALLOW THE APPELLANT ANY DEFENSE.

Clearly, the Appellant is being coerced against and the dating made by the Ninth District are in conflict with reality. Back tracking to cover up records is not a legal activity.

Additionally,

The Order to Deny Appellant's Motion for Reconsideration was dated on Jan 7, 2005, Exhibit 3C, which again is prior to the Dating of Jan 21, 2005 recorded on Exhibit 3. Further, There is no Time Stamp on Exhibit 3C

Page 2 Of 2

EXHIBIT 4

United States District Court - District of Nevada

Filed 2005 Jan 25 and Time Stamped P 6:11

D.C. # CV 04-00987RCJ
USCA No 04-17048

FIRST NATIONAL BANK OF OMAHA, PLAINTIFF
XENIA GUAM, DEFENDANT, APPELLANT

ORDER ON MANDATE

The above entitled cause having been before the United States Court of Appeals for the Ninth Circuit, and the Court of Appeals issued its mandate that this appeal is dismissed for lack of jurisdiction, and the Court being fully advised in the premises, **NOW THEREFORE, IT IS ORDERED** that the mandate be spread upon the records of this Court.

Dated this 25th day of January 2005 (hand dated)

Signed
Robert C Jones
United States District Judge

EXHIBIT 5

District Court , Clark County , Nevada
Filed May 7, 2004
Case No A485261 - Attorney, Robert S Qualey

FIRST NATIONAL BANK OF OMAHA, Plaintiff
XENIA GUAM, individually; Qi Y Guan, individually
Defendants

SUMMON/S - Dated - May 7, 2004

**NOTICE: YOU HAVE BEEN SUED. THE COURT MAY
DECIDE AGAINST YOU WITHOUT YOUR BEING
HEARD UNLESS YOU RESPOND WITHIN 20 DAY7S.
READ THE INFORMATION BELOW.**

TO THE DEFENDANT: A civil complaint has been filed by
the Plaintiff against you for the relief set forth in the Com-
plaint.

1. If you intend to defend this lawsuit, within 20 days after
this Summons is served on you exclusive of the day of ser-
vice, you must do the following:
 - a. File with the Clerk of this Court, whose address is shown
below, a formal written response to the complaint in accor-
dance with the rules of the court. A \$ 25.00 filing fee is
required.
 - b. Serve a copy of your response upon the attorney, whose
name and address is shown below.
2. Unless you respond, your default will be entered upon

application of the Plaintiff and this court may enter a judgment against you for the relief demanded in the Complaint, which could result in the taking of money or property or other relief requested in the Complaint

3. If you intend to seek the advice of and attorney in this matter, you should do so promptly so that your response may be filed on time.

Signed by attorney for Plaintiff Robert S Qualey
20 Bonaventure Avenue
Las Vegas, Nevada
(702) 474-6677

Page 2 of 2

EXHIBIT 6

Evidence of Violations Of Federal Laws

Defendant requested Validation and Verification of debt by affidavit on November 17, 2003 from the Plaintiff **under Federal Statute USC 15, 1692(g). Plaintiff failed to Respond, Plaintiff's Attorney/s failed to Respond.**

Plaintiff and Plaintiff's attorney debt collectors are in violations of the ***Federal Debt Collection Act-U S Codes Title 15 Section 1692(g)***

Plaintiff and Plaintiff's attorney debt collectors have not provided the required validation and verification by affidavit as required by Federal law and , Plaintiff's debt collectors **failed to cease all debt collection activity** required by Federal Law, Specifically the *Fair Debt Collection Procedure Act*, until such affidavit is provided to the consumer , that is, the Defendant. Further, Plaintiff's attorney/s **continued their debt collection activities by illegally filing separate extortionate lawsuits against the Appellant, Defendant in the Nevada Court Systems for the collection of a alleged and unproven debt claimed by each separate Plaintiff lawsuit/s. Filing a extortionate lawsuit for a purported claim of debt in violation of Federal Laws is not considered *ceasing all debt collection activities as stated in the Federal Laws*. It is exactly the OPPOSITE and in violation of **FEDERAL LAWS****

The Plaintiff has practiced Total Silence of Acquiescence since November 17, 2003 and has never legally validated their purported claim by a contract or by a signed Affidavit as required by *Federal Laws cited herein*.

Ultra Vires permeate the Plaintiff's and their attorney/s activities.

The Plaintiff has **NO LEGAL STANDINGS** and has failed to provide proof of claim/s for a period of 1 year and 6 months.

Evidence of Violations Of Federal Laws

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

Division of Credit Practices

Bureau of Consumer Protection

March 10, 1993

Jeffrey S. Wollman

Vice President and Controller

Retrieval Masters Creditors Bureau, Inc.

1261 Broadway, New York, New York 10001

Dear Mr. Wollman:

This is in response to your letter of February 9, 1993 to David Medine regarding the type of **verification required by Section 809(b)** of the Fair Debt Collection Practices Act. You ask whether a collection agency for a medical provider will fulfill the requirements of that Section if it produces "an itemized statement of services rendered to a patient on its own computer from information provided by the medical institution . . ." in response to a request for verification of the debt. You also ask who is responsible for mailing the verification to the consumer.

The statute requires that the debt collector obtain verification of the debt and mail it to the consumer (emphasis

mine). Because one of the principal purposes of this Section is to help consumers who have been misidentified by the debt collector or who dispute the amount of the debt, it is important that the verification of the identity of the consumer and the amount of the debt be obtained directly from the creditor. Mere itemization of what the debt collector already has does not accomplish this purpose. As stated above, the statute

Page 1 of 2 EXHIBIT 7

requires the debt collector, not the creditor, to mail the verification to the consumer.

Your interest in writing is appreciated. Please be aware that since this is only the opinion of Commission staff, the Commission itself is not bound by it.

Sincerely,

John F. LeFevre

Attorney

Division of Credit Practices

Comment;

Plaintiff 's failure and Plaintiff's Attorney/s failure to validate and verify their purported claims are in violation of Federal Laws.

Additionally this means the Plaintiff has No Legal Standing

Page 2 of 3 EXHIBIT 7

Plaintiff filed their extortionate law suits in violation of the herein cited Federal Laws.

Illegally filed Lawsuits may not be Filed under *Federal*

Laws or State Laws and must be Dismissed with prejudice.

Extortionate type Laws suits are in violation of RICO LAWS.

Page 3 of 3

EXHIBIT 7

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580

Division of Credit Practices
Bureau of Consumer Protection

March 3, 1992

Mr. John D. Krisor, Jr.
Krisor and Nusabaum
P.O. Box 6200, South Bend, Indiana 46660-6200

Dear Mr. Krisor:

This is in response to your letter of October 9, 1991 wherein you pose two questions:

(1) If a debt collector ceases collection activity, must the debt collector send documentation of the indebtedness to the debtor?

(2) Can a debt collector charge for copies of the documentation of the indebtedness?

1. Section 809(b) of the Act provides that if the consumer disputes the debt or requests identification of the original creditor in writing, the collector must cease collection efforts until he verifies the debt, or identifies the original creditor and mails a response to the consumer. If the consumer's request for verification of the debt was made in

accordance with Section 809(b) of the Act, the collector need not supply the documentation but only so long as collection efforts are not resumed. Section 809(b) requires that "the collector

cease collection of the debt, or any disputed portion thereof, until the debt collector obtains verification of the debt . .

. and a copy of such

verification . . . is mailed to the consumer by the debt collector." In situations contemplated by Section 809(b), the Act imposes the obligation to furnish verification before the collector resumes collection efforts. In the event the collector decides not to pursue the collection efforts, there is no requirement to furnish the documentation of the indebtedness to the consumer. In the event that collection efforts are resumed, the requirement to furnish verification to the consumer prior to resumption of collection remains.

2. A collector may not charge (the consumer) for copies of the documentation or the indebtedness mailed in response to the collector's obligations under Section 809(b). To do so could constitute an imposition of a fee or service charge in violation of Section 808(l) of the Act.(1) The cost of obtaining documentation referred to in your letter is more appropriately a cost of doing business by the collector in the same manner as is postage and telephone charges.

I hope this information will be helpful. The views expressed herein represent an informal staff opinion. As

such they are not binding on the Commission. They do, however, reflect the staff's current enforcement position.

Sincerely,

Roger J. Fitzpatrick
Attorney
Division of Credit Practices

Plaintiff 's failure and Plaintiff's Attorney/s failure to validate and verify their purported claims are in violation of *Federal Laws*.

Additionally this means the Plaintiff has *No Legal Standing*

Plaintiff filed their extortionate law suits in violation of the herein cited Federal Laws.

Illegally filed Lawsuits may not be Filed under *Federal Laws or State Laws and must be Dismissed with prejudice*.

Extortionate type Laws suits are in violation of *RICO LAWS*.

Page 3 of 3

EXHIBIT 7A

**FEDERAL TRADE COMMISSION
WASHINGTON, D.C. 20580**

Federal Trade Commission
December 23, 1997
Robert G. Cass
Compliance Counsel
Commercial Financial Services, Inc.
2448 E. 81st Street, Suite 5500
Tulsa, OK 74137-4248

Dear Mr. Cass:

Mr. Medine has asked me to reply to your letter of October 28, 1997, concerning the circumstances under which a debt collector may report a "charged-off debt" to a consumer reporting agency under the enclosed Fair Debt Collection Practices Act. In that letter, you pose four questions, which I set out below with our answers.

I. "Is it permissible under the FDCPA for a debt collector to report charged-off debts to a consumer reporting agency during the term of the 30-day validation period detailed in Section 1692g?" Yes. As stated in the Commission's Staff Commentary on the FDCPA (copy enclosed), a debt collector may accurately report a debt to a consumer reporting agency within the thirty day validation period (*p.* 50103). We do not regard the action of reporting a debt to a consumer reporting agency as inconsistent

with the consumer's dispute or verification rights under § 1692g.

II. "Is it permissible under the *FDCPA* for a debt collector to report, or continue to report, a consumer's charged-off debt to a consumer reporting agency after the debt collector has received, but not responded to, a consumer's written dispute during the 30-day validation period detailed in § 1692g?" As you know, Section 1692g(b) requires the debt collector to cease collection of the debt at issue if a written dispute is received within the 30-day validation period until verification is obtained. Because we believe that reporting a charged-off debt to a consumer reporting agency, particularly at this stage of the collection process, constitutes "collection activity" on the part of the collector, our answer to your question is No. Although the *FDCPA* is unclear on this point, we believe the reality is that debt collectors use the reporting mechanism as a tool to persuade consumers to pay, just like dunning letters and telephone calls. Of course, if a dispute is received after a debt has been reported to a consumer reporting agency, the debt collector is obligated by Section 1692e(8) to inform the consumer reporting agency of the dispute.

III. "Is it permissible under the *FDCPA* to cease collection of a debt rather than respond to a written dispute from a consumer received during the 30-day validation period?" Yes. There is nothing in the *FDCPA* that requires a debt collector to continue collec

ting a debt after a written dispute is received. Further, there is nothing in the FDCPA that requires a response to a written dispute if the Page 2 of 3 EXHIBIT 7B debt collector chooses to abandon its collection effort with respect to the debt at issue. See *Smith v. Transworld Systems, Inc.*, 953 F.2d 1025, 1032 (6th Cir. 1992).IV. "Would the following action by a debt collector constitute continued collection activity under § 1692g(b): reporting a charged-off consumer debt to a consumer reporting agency as disputed in accordance with § 1692e(8), when the debt collector became aware of the dispute when the consumer sent a written dispute to the debt collector during the 30-day validation period, and no verification of the debt has been provided by the debt collector?" Yes. As stated in our answer to Question II, we view reporting to a consumer reporting agency as a collection activity prohibited by § 1692g(b) after a written dispute is received and no verification has been provided. Again, however, a debt collector must report a dispute received after a debt has been reported under § 1692e(8).

I hope this is responsive to your request.

Sincerely,

John F. LeFevre

Attorney

Enclosure

Citing : *Spears v Brennan*

"Brennan (plaintiff collection agency attorney) violated 15 U.S.C. § 1692g(b) when he obtained a default judgment against Spears (defendant) after Spears had notified Brennan in writing that the debt was being disputed and before Brennan had mailed verification of the debt to Spears."

Page 4 of 4

EXHIBIT 7B

Dispute Letter

Date October 17, 2003
XENIA C GUAM©
1763 Cherokee Ln
Las Vegas, Nevada 89109
4017-6891-5082-1786

First National Bank Omaha
Customer Service
Billing Inquiries Dispute
PO Box 3696
Omaha, NE 68103-0696

Dear Sir or Madam:

I am writing to dispute a billing error in the amount of \$
21,080.27 on account 4017-6891-5082-1786

The amount is inaccurate because of the following ;

This is a request for validation made pursuant to by law,
(15 USC 1692g § 809.

Validation of debts and the Fair Credit Billing Act shown
below and other Laws)

to have the right to request a verification and validation of
the debt and who funded the debt, which should be in the
diclosures section of a legal contract you may claim to have;

- Do to recently received new legal information to me, the following items will be required of your bank, . I hereby lawfully request to see a valid signed legal contract you may claim I have with your Bank.
- Additionally, to prove that a valid legal contract does indeed exist, please have your bank authorized representative sign the enclosed "affidavit" before a Notary Public.
- Further and additionally, I hereby lawfully request a notarized statement by a person with original knowledge of the purported debt as it was constituted (from a CPA) and who can testify under oath that the purported debt was incurred legally using GAAP Rules and Standards and was not utilized as a profit-loss tax deduction during the period it may have been payable, and was not claimed as a loss with any insuring entity during the period it may have been payable and that your Bank has followed all Banking Laws, Rules and Regulations and all Contractual Laws and GAAP Rules and Standards in regards this matter
- Please return the "affidavit enclosed, signed and notarized by your authorized bank representative (Branch Manager)" and a "legal contract signed by me that you may claim I have with your bank" and a " notarized statement letter from your bank from a authorized bank representative (from a CPA) who has original knowledge of the purported debt as it was constituted and who can testify under oath that

the purported debt was incurred legally using GAAP Rules and Standards and that your Bank has followed all Banking Laws, Rules and Regulations and all Contractual Laws and GAAP accounting Principles in regards this matter and mail to me at the address listed at top of this letter.

Be advised that I am not requesting a "verification" that you have my mailing address.

I am legally requesting "Validations" and "Verifications",
Page 2

that is, competent evidence of a "Legal Contract" and supporting "Notarized Affidavit" and a supporting "Bank Statement" that I have some legal contractual obligation to pay you.

Additionally, This notice shall also serve as a limited cease and desist order and a demand that all future communication be in writing, via postal mail. Further that no telephone calls will be placed to my home or work telephone numbers from your Bank or other agencies you may use at any time of the day or night.

Fair Credit Billing Act (FCBA) (effective 1975) applies only to open-end credit transactions. Among other things, the act specifies a step-bystep procedure for error resolutions. The procedure is as follows:

- The consumer must give written notice of a billing error, in a letter, within 60 days of receiving the bill in question.

Page 3 of 5 EXHIBIT 8A

- The creditor must respond within 30 days and resolve the dispute within two billing cycles, but not longer than 90 days. Within 90 days, the creditor must either explain why the bill is correct or correct the error.
- During the resolution period no collection activity is permitted on the disputed amount and no finance charges may be collected as well. The account may not be reported as delinquent, nor can it be closed nor restricted because of the consumer's failure to pay the disputed amount, and/or related charges.

Please know that you have 30 days from the tracked and confirmed delivery of this lawful notice to either answer these demands or to remove the associated negative trade-line notations from the Credit Reporting Agency reports. Any other action may constitute evidence of your intent to abridge Page 3

one or more civil or other constitutional rights. Please be further advised that continued unsubstantiated reporting of possible inaccuracies to third parties may provide a basis for criminal complaints being filed in accordance with FDCPA, FCRA, and other federal statutes.

Note, do to the above new legal information to me and my legal requests for verification and validation, I have not agreed that this purported debt is mine. I have the option to seek further proof from your Bank or agencies of this purported debt that may occur only age 2

through a legal contract and legally by the bank that has carefully followed and adhered to all Laws, Contract Laws, all Banking Laws, Regulations and Rules and all GAAP Standards and Rules.

Your failure to satisfy this request within the requirements of the law (15 USC 1692g § 809 and the Fair Debt Collection Practices Act and other Laws) will be construed as your absolute waiver of any and all claims against me, and your tacit agreement to compensate me for costs and attorney fees as awarded, if required. Further, that your Bank report to all credit reporting agencies your bank may use, that the account herein is closed and has a "zero balance" and indicated as "paid as agreed" only.

This effort is made based on the new legal information and to resolve all errors in and administrative manner.

Sincerely,

XENIA C GUAM ©

Page 4

Page 5 of 5

EXHIBIT 8A

BLALOCK & QUALEY
ATTORNEY AT LAW
20 BONAVENTURE AVENUE
LAAS VEGAS NEVADA 89101
702-474-6677

FEBRUARY 26, 2004

Xenia C Guam
Qi Y Guam
1763 Cherokewe Ln
Las Vegas, NV 89109

RE: First National Bank of vs Xenia C & Qi Y Guam
Amount Due \$ 22,356.04 (including interest \$ 758.00)
Our File No. Y40208

Dear Xenia C & Qi Y Guam:

The above rerfferenced creditor has referred this account to our law firm for collection. Please send your check directly to this office so that your account can be posted promptly. Upon receipt of your check, we will terminate any further action If you are unable to make full payment, it is essential that you contact us to make payment arrangements. If this case were to proceed to litigation, the Court may award attorney's fees and court costs, which could substantially increase the balance owed. Since this is an

attempt to collect a debt, any information obtained will be used for that purpose. Your prompt attention to this matter is appreciated.

Sincerely,
BLALOCK & QUALEY

SIGNED BY ROBERT S. QUALEY

VALIDATION NOTICE

Unless you notify this office within thirty days after receiving this notice that you dispute the validity of this debt, or any portion thereof, the debt will be assumed to be valid by this office. If you notify this office in writing within thirty day period that this debt, or any portion thereof is disputed, this office will obtain verification of the debt or a copy of the judgment against you and a copy of such verification or judgment will be mailed to you by this office. Upon written request within the thirty day period, this office will also provide you with the name and address of the original creditor, if different from the current creditor.

Page 2 of 2 EXHIBIT 8B

EXHIBIT 8B

Evidence of Violations Of Federal Laws
by the Plaintiff and Plaintiff's Attorney/s

SPECIFICALLY;

The Plaintiff violated **Federal Laws**, specifically the **Fair Billing Act Procedure**; by hiring and attorney during the period of time allocated to settle disputes as outlined in the **Federal Fair Billing Act**. **This is not permitted under Federal Law**. Further ; by allowing their attorney to write a collection letter and further by failing to provide the affidavit requested by the Defendant in this case to verify and validate their purported claim/s as are clearly outlined in the **Federal Fair Billing Act** and violated by the Plaintiff.

Additionally, the attorney/s are in violation of their *code of ethics*, 1) by accepting the case during the allocated period of time and 2) for filing and extortionate lawsuit against the Defendant without providing the Defendant with who the Original Creditor actually is.

and 3) in violation of the **Federal Fair Debt Collection Act**, specifically **Rule 1692 (g)** and other citings of **Federal Laws** in citing contained herein.

As promised in the attorney letter dated December 17, 2003 they would provide the Original Creditor and they additionally failed to provide the identity of the Original Creditor and supply that information via signed Affidavit under oath to the Defendant as required by

Federal Laws, specifically, the Fair Billing Act. and Rule 1692 (g) of the Fair Debt Collection Act.

The Plaintiff and their attorney/s have failed to provide proof of claim; validation and verification since October 17, 2003. A period of 1 year and 6 months, which far exceeds the time limits offered in the *Federal Laws* cited herein. Additional Evidence is provide in EXHIBIT 11A to support the Defendants position and to further provide evidence that the Plaintiff and their attorney/s have NO *LEGAL STANDING* and have filed *Extortionate Lawsuits* against the Defendant and against *Federal Laws* cited herein and in violation of *Rico Laws*.

Page 2 of 2

EXHIBIT 8C

XENIA C GUAM ©
1763 CHEROKEE LN
LAS VEGAS, NV 89109

BLALOCK & QUALEY
20 BONNEVILLE AVENUE
LAS VEGAS, NEVADA 89101

March 3, 2004

RE: Your Letter Dated February 26, 2004

To BLALOCK & QUALEY:

Without objection, this is a legal notification of reply only to your letter to inform you if you are not already aware that the entire amount you have quoted as "\$ 22,356.04" is disputed.

Further, First National Bank of, was notified on or about October 17, 2003 of the disputed account and a legal request was made of First National Bank of, to provide validation and verification of any existing contract on the purported debt and other important pertinent information.

First National Bank of, failed to provide such validation and verification as required by many different laws and did not provide other information requested.

A Legal Default Notice dated November 27, 2003 was sent to First National Bank of, that clearly outlines the Default of First National Bank of, and waiver of any claims First National Bank of, may claim to have of any disputed amount. This is covered by many different laws regarding default, of which, many were outlined in the Default Notice.

All correspondence has been through First National Bank of, with a mailing address of First National Bank of, that is, First National Bank Omaha, Customer Service, PO Box 3696, Omaha, NE 68103-0696
You will be able to verify this information through your client's records.

First National Bank of, has not been responsive in any manner to my original dispute and requests and legally has violated a multitude of laws in regards my original dispute.

As you are and attorney, you should also well know the laws of "total acquiescence" that your client has chosen to use and is noted in the Default Notice sent to First National Bank of, and clearly First National Bank of, waives rights to any purported claims.

I am legally informing you and your company not to make telephone calls to my telephone numbers at work or my home. I am further legally informing you, your company and your clients not to send frivolous letters to my place of work or home.

Further, request of your client, the billing statements they have received in regards the current unpaid balance they (your client) owe to XENIA C GUAM © including any late fee penalties. Enclosed are the most recent statements of billing sent to First National Bank of.

DEMAND IS HEREBY MADE of First National Bank of,
for a total payment in full in the amount of One Hundred
Ninety Thousand Six Hundred Seven dollars and 50/100
Dollars -- Total Unpaid Balance Due of \$ 190,607.50

Please send Negotiable US Funds Cashiers Check made payable to XENIA C GUAM ® © at 1763 Cherokee Ln. Las Vegas, Nevada 89109.

Should you fail to render payment within a timely period or dispute this amount as per the enclosed statement, your client will be billed additionally 24.99% on any outstanding balance due on a monthly basis or face other remedies available to XENIA C GUAM ©, including that of Notification to The Banking Authorities in Houston, TX, Notification to the SEC, Notification to the FTC and Notification of any late payments to Dun & Bradstreet and filing suit and possible criminal charges against First National Bank of.

I am providing you with a (enclosed) Legal Affidavit and request you have it signed and notarized by your client First National Bank of, to provide me legal verification and to meet the other requests made in my initial dispute letter to First National Bank of.

If you can not accomplish this please honor the laws and recognize that First National Bank of, has already legally waived any claims to any purported amount. Further, that any adverse actions towards me in any fashion by you, your company, First National Bank of, may constitute grounds of criminal offenses.

DEMAND IS HEREBY MADE that First National Bank of, send to me a statement showing only a zero (\$0.00) balance due and listed as "paid as agreed" and that only then, the account be closed at my request. Further, that this information showing a zero (\$0.00) balance due and "paid as agreed" be submitted to all credit reporting agencies used by you, your company or your clients companies and that no Inquiries are made on my credit report by you, your company or your clients companies.

Should you fail to return the enclosed Legal Affidavit and or fail to have your client send me a statement reflecting a zero (\$0.00) balance due with "paid as agreed" in a timely manner First National Bank of, is in jeopardy of being sued as per the Default Notice dated November 27, 2003 stipulation.

There is and enclosed Special Legal Notice in regards the use of my name and or all derivatives thereof in ALL-CAPITAL LETTERS or small letter. Additionally, in regards the use of my telephone lines. First National Bank of, has chosen to abide by the agreement by their knowing use thereof which is verifiable by the dating of their use.

Please read the Special Legal Notice very carefully as it is a legal notice to you and to your company and a continuing notice to your client/s, which unfortunately, they have continually ignored to this date, yet knowingly agreed to the use thereof.

I will allow a one (1) time courtesy mailing from you and your company only if your mailing contains the signed and notarized Legal Affidavit required of your client and enclosed herein and other requests made in my initial dispute letter and or if First National Bank of, authorizes your company to issues a Cashiers Check for the unpaid balance of One Hundred Ninety Thousand Six Hundred Seven dollars and 50/100 Dollars \$ 190,607.50 that is due me from your client.

I have enclosed a billing previously sent to your client so that you will have information that your client may have failed to make you aware of.

Sincerely,
XENIA C GUAM ©

The Signature above is for courtesy purposes only and does not mean or indicate agreement to anything. It is signed to show legal proof of dispute and legal requests made by myself only.

Special Legal Notices

As of November 17, 2003

To whom it may concern,

Please be advised that the telephone numbers you may have listed for

XENIA C GUAM © are Toll Free telephone lines and that a fee of \$ 10,000.00

is charged **per call** and or for each message left on these answering systems.

Do not call or leave a message unless you are prepared to pay the \$ 10,000.00 fee for each occurrence of use. This is also clearly stated on the Telephone Communication System.

Toll Free Service started November 5, 2003 and supercedes date of November 17, 2003 listed above.

Please be further advised that I do not have anything against your using my name

XENIA C GUAM, however, I will have to charge you a fee for using any derivatives of my name. My fee for using my name, **XENIA C GUAM** or any derivatives thereof is \$ 50,000.00 for each separate occurrence of use, no matter how you use it and no matter for what purpose/s of your use. Do not use **XENIA C GUAM** or any derivatives thereof unless you are prepared to pay the \$ 50,000.00 fee for each occurrence of use.

Example; if you used my name 3 different times Page 6 of

on a paper or document or other uses thereof.

My charge is then 3 times \$ 50,000.00 for a total amount of \$ 150,000.00 you will owe me, regardless of what type of paper or document or other uses thereof.

So, clearly, the charge is for each individual time you use my name or any derivatives thereof. No exceptions.

You will notice on my correspondence a (©) at the end of my name.

This (©) is there to make my charges Legal and Binding under law with this notice. This applies to all legal and non legal usages of XENIA C GUAM or any derivatives thereof for whatever reason/s or purpose/s of intended use.

Failure to pay promptly on billing will then incur a monthly 24% late fee charge on the outstanding balance amounts due each month thereafter. Further a Legal Lien will be placed against any unpaid accounts immediately. Please pay promptly to avoid late fee charges and or Legal Liens

Payments are accepted by Certified Bank Checks that are negotiable only.

As a one (1) time courtesy I will allow you to send me one (1) statement only that reflects only a \$ 0.00 balance due on the statement.

You will be charged otherwise for any use of XENIA C GUAM or any derivatives thereof as clearly described above.

XENIA C GUAM ©

AFFIDAVIT

The undersigned affiant, being duly sworn on oath, deposes and says: That he/she is an officer of the below named financial institution, a nationally chartered commercial bank or lending institution or organization purchasing promissory notes, hereinafter called bank. That, as an officer of the bank, he/she has the authority to execute this affidavit on behalf of the bank and to bind the bank to its provisions. It is understood that an exchange is not a loan. It is understood that the borrower's promissory note is not used to fund any check. It is understood that the bank does not record the promissory note as a bank asset offset by a bank liability. It is understood the bank complies with and follows the Federal Reserve Bank's policies and procedures. It is understood that the bank does not use the same or a similar bookkeeping entry to record the promissory note as a loan to the bank. It is understood that when banks participate in granting loans the economic effect is not the same or similar to stealing, counterfeiting, or a swindle. Banks who follow the Federal Reserve Bank's policies and procedures deny customers neither equal protection under the law, nor money, nor credit. The bank fully discloses to each and every borrower all material facts concerning if the borrower provides the funds to issue the bank loan check or if other depositors or investors

fund the bank loan check. It is understood that the one who funded the loan should be repaid their money. It is understood that cash is the money and a bank liability indicates that the bank owes cash. I agree that if I have made a false statement regarding bank loans, then any and all loans or alleged loans issued or purchased at the bank are forgiven, without recourse, and shall immediately be considered null and void. Signed under penalty of perjury.

Signature	of	Bank	Officer
Print	Name	of	Bank
Officer			

Name	of	Bank:
Address	of	Bank:
City/State/Zip:		

Sworn to and subscribed before me this _____ day of _____, 20____.

Signature	of	Notary	Public:
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Page 2 of 2 Affidavit

and Page 8 of 8

EXHIBIT 10A

EXHIBIT 10B

Evidence of Violations Of Federal Laws **by the Plaintiff and Plaintiff's Attorney/s**

Plaintiff has continually violated Federal Law, specifically U S Title 47 sec. 227. Additionally, this violation mandates exclusive jurisdiction to a Federal Court.

This mandate was ignored by the Ninth Circuit Court of Appeals and ignored by the US District Court District of Nevada.

Plaintiff made numerous daily harassing phone calls to The Appellant, Defendant . The Appellant, Defendant had requested no telephone calls be made in a Certified mailing dated in October of 2003 . All Calls are recorded for evidence.

Plaintiff's calls were made by and automated calling device and no identification was made, the only portion that related to the Plaintiff was a telephone number left at the end of their recorded messages.

The Defendant owns a Licensed Computer Company in Las Vegas, Nevada and these calls definitely interfered with conducting business which provides Internet Services, Voice mail boxes and related communications for data processing.

The Calls were incessant (over 100 received) between October of 2003 and December of 2004 a period of almost 1 year. These recorded calls were given as evidence

to the US District Court - District of Nevada and were totally ignored by the District Court and were totally ignored by the Ninth District Court as well. U S Title 47 sec. 227 use without identification is prohibited by Federal Laws and the Telephone Harassment Act.

The Defendant has every right to legally charge for the usages of its communication system and Trade Name and Trade Marks and for any use of the Defendant's copy rights. All legal notification were made to the Plaintiff in advance of any charges made as evidence by the herein *SPECIAL LEGAL NOTICE* in EXHIBIT 10A

Plaintiff is in violation of *Copy Right Laws* and has used the Defendant's Copy Right Name in violation of Copy Right Laws cited herein and in violation of the *Mail Harassment Act*.

Page 2 of 2

EXHIBIT 10B

Evidence of Violations Of Federal Laws
by the Plaintiff and Plaintiff's Attorney/s

Attached as part of hereof as EVIDENCE

The attached Exhibit is from the Attorney's offices of
CITIBANK .

This Evidence is clear Proof of Evidence Tampering in
Violation of Federal Laws, US Treasury Laws and Bank-
ing Laws.

This Evidence was ignored by all Federal Court Judges in
the Nevada District and in the Ninth Circuit Court of
Appeals.

As the other case cited herein involving FIRST NATION-
AL BANK OF OMAHA was combined with this case for
Oral Arguments and the resulting error ridden decision
of the Nevada District Federal Court and the Federal
Ninth District Court of Appeals it therefore becomes evi-
dence admissible relative to both cases.

Validation and verification of proof of claim and original
creditor was requested under the guidance of Federal Stat-
utes, Acts and Laws and was not received from either
CITIBANK or FIRST NATIONAL BANK OF OMAHA as
required by these laws and within the time

frames set forth by these laws. Both of these parties violated the herein cited Federal Laws and both parties illegally filed lawsuits in violation and against these Federal Laws. Neither party has complied with these laws to this date, a period of One (1) Year and Six (6) Months.

Evidence Tampering, Total Silence of Acquiescence, Deceit, Deception and Non Disclosure and violations of Federal Laws clearly show that the plethora of law violated by these parties are endless and in violation of all Constitutional Rights of this party and of all United States Citizens Rights.

CITIBANK and FIRST NATIONAL BANK OF OMAHA clearly have no legal standing and have admitted this fact by this tampering of evidence and violations of Federal Laws and collusion to agreement of these cited violations between these two parties.

Legal information is never disposed of and CITIBANK Legal Department and collection attorneys are simply lying to avoid criminal prosecution under *Rico Laws* for extortion..

EVIDENCE TAMPERING

Memorandum

CITI

CITIBANK

**National Recoveries Man-
agement**

TO: ALL CITICORP ATTORNEYS

From: LITIGATION SUPPORT

**RE: Application Request for Account #
5424180521231818**

**The application requested for the attached CITI account
5424180521231818 is no longer available. Applications are
kept on file for a period of Seven years. The account origi-
nation date of 01/01/1992 exceeds seven years.**

This Memorandum is not referring to and actual contract.

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EXHIBIT 11A

Evidence of Violations Of Federal Laws
by the Plaintiff and Plaintiff's Attorney/s
Evidence of US Supreme Court and other
Courts Decisions in Like or similar Cases

Ultra Vires exist in abundance and listed herein are quotes from United State Supreme Court Justices in regards Ultra Vires and are associated with cases listed herein in the Table of Authorities and apply to these cases presented by the Appellant, Defendant.

The Failure Both of the Applelee, Plaintiffs and their attorneys to provide proof of their debt claims and their extortionately illegally filed lawsuits give clear proof of the Ultra Vires.

1. In *Central Transp. Co. v. Pullman*, 139 U.S. 60, 11 S. Ct. 478, 35 L. Ed. 55, the court said: "A contract ultra vires being unlawful and void, not because it is in itself immoral, but because the corporation, by the law of its creation, is incapable of making it, the courts, while refusing to maintain any action upon the unlawful contract, have always striven to do justice between the parties, so far as could be done consistently with adherence to law, by permitting property or money, parted with on the faith of the unlawful contract, to be recovered back, or compensation to be made for it. In such case, however, the action is not maintained upon the unlawful contract, nor according to its terms; but on an implied contract of the defendant to return, or, failing to do that, to make compensation for, property or money which it has no right to retain.

To maintain such an action is not to affirm, but to disaffirm, the unlawful contract."

2. "When a contract is once declared ultra vires, the fact that it is executed does not validate it, nor can it be ratified, so as to make it the basis of suit or action, nor does the doctrine of estoppel apply." *F& PR v. Richmond*, 133 SE 898; 151 Va 195.

3. "A national bank . . . cannot lend its credit to another by becoming surety, indorser, or guarantor for him, such an act is ultra vires . . ." *Merchants' Bank v. Baird*, 160 F 642.

The Courts say that such contracts with borrowers are wholly void from the beginning of the transaction because banks are not granted powers to enter into such contracts by either state or national charters.

Additional Borrower Relief In District Court the borrower may have additional claims for relief under "Civil RICO" Federal Racketeering laws (18 U.S.C. 1964), as the lender may have established a "pattern of racketeering activity" by using the U.S. Mail more than twice to collect an unlawful debt and the lender may be in violation of 18 U.S.C. 1341, 1343, 1961 and 1962. The borrower may have other claims for relief if he can prove there was or is a conspiracy to deprive him of property without due process of law under 42 U.S.C. 1983 (*Constitutional Injury*), 1985 (*Conspiracy*) and 1986 ("Knowledge" and "Neglect to

Prevent" a U.S. Constitutional Wrong). Under 18 U.S.C.A. 241 (Conspiracy) violators, "shall be fined not more than \$10,000 or imprisoned not more than ten (10) years or both." Continuation of case cites in support

4. "In the federal courts, it is well established that a national bank has not power to lend its credit to another by becoming surety, indorser, or guarantor for him." *Farmers and Miners Bank v. Bluefield Nat'l Bank*, 11 F 2d 83, 271 U.S. 669.

5. "A national bank has no power to lend its credit to any person or corporation . . ." *Bowen v. Needles Nat. Bank*, 94 F 925, 36 CCA 553, certiorari denied in 20 S.Ct 1024, 176 US 682, 44 LED 637.

6. "Mr. Justice Marshall said: The doctrine of ultra vires is a most powerful weapon to keep private corporations within their legitimate spheres and to punish them for violations of their corporate charters, and it probably is not invoked too often . . . *Zinc Carbonate Co. v. First National Bank*, 103 Wis 125, 79 NW 229."

American Express Co. v. Citizens State Bank, 194 NW 430.

7. "A bank may not lend its credit to another, even though such a transaction turns out to have been of benefit to the bank, and in support of this a list of cases might be cited, which would look like a catalog of ships." [Emphasis

added] *Norton Grocery Co. v. Peoples Nat. Bank*, 144 SE 505, 151 Va 195.

8. "It has been settled beyond controversy that a national bank, under federal law being limited in its powers and capacity, cannot lend its credit by guaranteeing the debts of another. All such contracts entered into by its officers are ultra vires . . ." *Howard & Foster Co. v. Citizens Nat'l Bank of Union*, 133 SC 202, 130 SE 759(1926).

9. "... checks, drafts, money orders, and bank notes are not lawful money of the United States . . ." *State v. Neilon*, 73 Pac 324, 43 Ore 168.

10. "Neither, as included in its powers not incidental to them, is it a part of a bank's business to lend its credit. If a bank could lend its credit as well as its money, it might, if it received compensation and was careful to put its name only to solid paper, make a great deal more than any lawful interest on its money would amount to. If not careful, the power would be the mother of panics, Indeed, lending credit is the exact opposite of lending money, which is the real business of a bank, for while the latter creates a liability in favor of the bank, the former gives rise to a liability of the bank to another. 1 *Morse, Banks and Banking*, 5th Ed. Sec 65; *Magee, Banks and Banking*, 3rd Ed. Sec 248. " *American Express Co. v. Citizens State Bank*, 194 NW 429.

11. "It is not within those statutory powers for a national bank, even though solvent, to lend its credit to another in

eral Intermediate Credit Bank v. L. `Harrison, 33 F 2d 841, 842 (1929).

12. "There is no doubt but what the law is that a national bank cannot lend its credit or become an accommodation endorser." *National Bank of Commerce v. Atkinson*, 55 F. 471.

13. "A bank can lend its money, but not its credit." *First Nat `I Bank of Tallapoosa v. Monroe*, 135 Ga 614, 69 SE 1124, 32 LRA (NS) 550.

14. "... the bank is allowed to lend money upon personal security; but it must be money that it loans, not its credit." *Seligman v. Charlottesville Nat. Bank*, 3 Hughes 647, Fed Case No.12, 642, 1039.

15. "A loan may be defined as the delivery by one party to, and the receipt by another party of, a sum of money upon an agreement, express or implied, to repay the sum with or without interest." *Parsons v. Fox*, 179 Ga 605, 176 SE 644. Also see *Kirkland v. Bailey*, 155 SE 2d 701 and *United States v. Neifert white Co.*, 247 Fed Supp 878, 879. "The word 'money' in its usual and ordinary acceptation means gold, silver, or paper money used as a circulating medium of exchange..." *Lane v. Railey*, 280-Ky 319, 133 SW 2d 75.

16. "A promise to pay cannot, by argument, however ingenious, be made the equivalent of actual payment..." *Christensen v. Beebe*, 91 P 133, 32 Utah 406.

17. "A bank is not the holder in due course upon merely crediting the depositors account." *Bankers Trust v. Nagler*, 229 NYS 2d 142, 143.

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18. "A check is merely an order on a bank to pay money." *Young v. Hembree*, 73 P2d 393.

19. "Any false representation of material facts made with knowledge of falsity and with intent that it shall be acted on by another in entering into contract, and which is so acted upon, constitutes 'fraud,' and entitles party deceived to avoid contract or recover damages." *Barnsdall Refining Corn. v. Birnam wood Oil Co.*, 92 F 2d 817.

20. "Any conduct capable of being turned into a statement of fact is representation. There is no distinction between misrepresentations effected by words and misrepresentations effected by other acts." *Leonard v. Springer*, 197 Ill 532, 64 NE 301.

21. "If any part of the consideration for a promise be illegal, or if there are several considerations for an unseverable promise one of which is illegal, the promise, whether written or oral, is wholly void, as it is impossible to say what part or which one of the considerations induced the promise." *Menominee River Co. v. Augustus Spies L & C Co.*, 147 Wis 559, 572; 132 NW 1122.

"The contract is void if it is only in part connected with the illegal transaction and the promise single or entire."

Page 6 of 8 EXHIBIT 12A

Guardian Agency v. Guardian Mut. Savings Bank, 227 Wis 550, 279 NW 83.

22. "It is not necessary for rescission of a contract that the party making the misrepresentation should have known that it was false, but recovery is allowed even though misrepresentation is innocently made, because it would be unjust to allow one who made false representations, even innocently, to retain the fruits of a bargain induced by such representations." *Whipp v. Iverson*, 43 Wis 2d 166.

23. "Each Federal Reserve bank is a separate corporation owned by commercial banks in its region . . ." *Lewis v. United States*, 680 F 2d 1239 (1982).

24. In a Debtor's RICO action against its creditor, alleging that the creditor had collected an unlawful debt, an interest rate (where all loan charges were added together) that exceeded, in the language of the RICO Statute, "twice the enforceable rate." The Court found no reason to impose a requirement that the Plaintiff show that the Defendant had been convicted of collecting an unlawful debt, running a "loan sharking" operation. The debt included the fact that exaction of a usurious interest rate rendered the debt unlawful and that is all that is necessary to support the Civil RICO action. *Durante Bros. & Sons, Inc. v. Flushing Nat'l Bank*, 755 F2d 239, Cert. denied, 473 US 906 (1985).

25. In this case it is the Petitioner showing evidence of the Plaintiff's Rico Activities of extortion for failure to

provide proof of claim as required by Federal Laws cited herein.

The Supreme Court found that the Plaintiff in a *civil RICO action* need establish only a criminal "violation" and not a criminal conviction. Further, the Court held that the Defendant need only have caused harm to the Plaintiff by the commission of a predicate offense in such a way as to constitute a "pattern of Racketeering activity." That is, the Plaintiff need not demonstrate that the Defendant is an organized crime figure, a mobster in the popular sense, or that the Plaintiff has suffered some type of special Racketeering injury; all that the Plaintiff must show is what the Statute specifically requires. The *RICO Statute* and the civil remedies for its violation are to be liberally construed to effect the Congressional purpose as broadly formulated in the Statute. *Sedima, SPRL V. Imrex Co.*, 473 US 479 (1985).

**Evidence of Violations Of Federal Laws
by the Plaintiff and Plaintiff's Attorney/s
and failure of the herein Cited Federal Courts
to Administer Federal Laws.**

A Illegal Attempt for Search and Seizure of Defendant's properties and records created by False Report of CITIBANK.

CITIBANK Filed a FALSE REPORT with The U S Secret Service in Las Vegas Nevada on or about April 1, 2004 and subsequently the U S Secret Service attempted to gain access to the residence of the Defendant based on False information provided by CITIBANK in their merciless attempt to extort money from the Defendant as per their illegally filed lawsuit against Federal Laws Cited herein.

This False Report was filed after the Plaintiff had filed their extortionate lawsuit against the Defendant.

The Defendant had requested both the US District Court - District of Nevada and the Ninth Circuit Court of Appeals to allow the U S Secret Service Agent, Mike Adams to be allowed to testify as a Key Witness on behalf of the Defendant in a Federal Court.

U S Secret Service Agent, Mike Adams is now fully aware that the Plaintiff had lied to him in regards all matters of the situation Failure by the Federal Courts listed

herein to allow this *Key Witness*, who is not allowed to testify in a State Court leaves the Defendant without full protection of a defense under *Federal Laws*.

As First National Bank of Omaha agreed to the combining of Oral Arguments in the U S District Court they are now and accessory accomplice by agreement to this illegal activity and bare the responsibility of this illegal activity in their quest to extort money from the Defendant without providing any proof of Claim as required by the herein cited Federal Laws.

All records of this were submitted to the U S District Court - District of Nevada and to the Ninth Circuit Court of Appeals.

These Courts totally ignored the *Constitutional Rights* of the Defendant that have been cited herein.

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EXHIBIT 13A

**Evidence of Violations Of Federal Laws
by the Plaintiff and Plaintiff's Attorney/s
and by the U S District Court - District of
Nevada and by the Ninth Circuit Court of
Appeals for Constitutional violations of the
Defenddant
and ignoring to Administer Federal Laws**

1 - See also, *Bivens v. Six Unknown Federal Narcotic Agents* (1971) and *False Claim Act*

Since *Bivens*' complaint state a cause of action under the **Fourth Amend.**, he is entitled to recover money damages for any injury he has suffered as a result of the fed. agents' violation of the Fourth Amend. Although the Fourth Amend. does not in so many words provide for its enforcement by an award of money damages, where legal rights have been invaded, and a fed. statute provide for a general right to sue for such invasion, fed cts. may use any available remedy to make good the wrong done.

Justice J. Harlan concurred. Contention that fed. cts. are powerless to accord a litigant damages for a claimed invasion of this fed. const. rights, until Congress expressly authorizes the remedy, cannot rest on the notion that the decision to grant compensatory relief involves a resolution of policy considerations not susceptible to judicial discernment. Thus, in suites for damages based on violations of federal statutes lacking any express authorization of a

damage remedy, S.Ct. has authorized such relief where damages are necessary to effectuate the congressional policy underlying the substantive provisions of the statute.

2 - 4th Amendment - Search and seizure; The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized and *False Claim Act*

3 - The FDCPA requires the debt collector to offer to verify the amount of the debt upon request if that request is made within 30 days. 1692g(b). During the verification period, should the debtor request verification of the debt, the debt collector is required to immediately cease all debt collection activities, including bringing or continuing a law suit.

Improper disclosures are also prohibited in the FDCPA as harassment or abuse or as an unfair practice. 1692a, 1692f.

4 - Jurisdiction - 28 U.S.C. 1254(1), 42 U.S.C. 1983 confirms Federal Jurisdiction.

5 - Constitution - Fifth Amendment, U.S. Constitution, Fourteenth Amendment, U.S. Constitution; The Fourteenth Amendment of the United States Constitution provides in pertinent

part: No State shall . . . deprive any person of life, liberty, or Property, without due Process of law

6 - The False Claim Act is violated by any person who

a. "knowingly presents, or causes to be presented, to an officer or employee of the United States Government or a member of the Armed Forces of the United States, a false or fraudulent claim for payment or approval." See 31 U.S.C.A. §3729 (a)(1).

b. "knowingly makes, uses, or causes to be made or used, a false record or statement to get a false or fraudulent claim paid or approved by the Government." See 31 U.S.C.A. §3729 (a)(2).

c. "conspires to defraud the Government by getting a false or fraudulent claim allowed or paid. See 31 U.S.C.A. §3729 (a)(3)

d. "has possession, custody, or control of property or money used, or to be used, by the Government and, intending to defraud the Government or willfully to conceal the property, delivers, or causes to be delivered, less property than the amount for which the person receives a certificate or receipt. See 31 U.S.C.A. §3729 (a)(4)

e. "authorized to make or deliver a document certifying receipt of property used, or to be used, by the Government and, intending to defraud the Government, makes or delivers the receipt without completely knowing that the information on the receipt is true." See 31 U.S.C.A. "3729 (a)(5)f. "knowingly buys, or receives as a pledge of an obligation or debt, property from an officer or employee of the Government, or a member of the Armed Forces, who lawfully may not sell or pledge the property;

or" See 31 U.S.C.A. §3729 (a)(6) g. "*knowingly makes, uses, or causes to be made or used, a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the government.*" See 31 U.S.C.A. §3729 (a)(7). Citing:

7 - United States Court of Appeals For the First Circuit
Case No. 03-1901 UNITED STATES OF AMERICA *ex rel.*
JOHN C. ARVELAS, *v.* MELROSE-WAKEFIELD HOSPITAL;
MELROSE-WAKEFIELD HEALTHCARE CORPORATION;
HALLMARK HEALTH SYSTEM, INC., and related
cases listed and cited therein and also
Carroll v. Xerox Corp., 294 F.3d 231, 241 (1st Cir. 2002), also
Thevenot v. NFIP 620 F.Supp. 391. (1984), also
U.S. v. MOATS, 961 F.2d 1198 (5th Cir. 1992), also
Cohen, 337 U.S. at 547, 69 S.Ct. at 1226

8 - IN THE UNITED STATES COURT OF APPEALS FOR
THE ELEVENTH CIRCUIT NO. 03-12226-GG CAROL
STRONSTORFF, *versus* BLAKE MEDICAL CENTER, INTEGRATED
HEALTH SERVICES OF BRADENTON, *et al*, "It is
a Constitutional
right to self-representation, but also there is also a right to
develop the case through discovery. There can be no final
hearing to be appealed in the current situation, which
denied both continuance and self-representation, and
thusly abrogates every Constitutional Right."

9 - The 9th circuit has held that one "who sub

mits a false claim for payment may still be liable under the FCA for statutory penalties, even if it did not actually induce the Government to pay out funds or to suffer any loss." United States v. Rivera, 55 F.3d 703, 709 (9th Cir. 1995); see, also, United States ex rel. Hagood v. Sonoma County Water Agency, 929 F.2d 1416, 1421 (9th Cir. 1991).

(Banks are regulated by the Treasury Department which is a Federal Agency and involve Federal Questions.)

10 - Not allowing any discovery in the face of known violations of law appears to be an abuse of discretion in itself, when the courts must uphold the law. US v. Walker, 142 F3d 103 (2nd Cir. 1998) recognizes the Sixth Amendment Right as absolute. See also Title 28 U.S.C. 1654 and Faretta V. California, 422 U.S. 806. In Farnsworth v. Procter & Gamble Co., 758 F.2d 1545 (11th Cir. 1985), this Court held that the Federal Rules of Civil Procedure strongly favor full discovery when ever possible! (There has been none allowed by the district court yet for this Defendant, Petitioner.)

11 - Supreme Court Authorized; Federal Rules of Civil Procedure Notes to Rule 81,

a - USC, Title 47: § 11 (Powers of Federal Communications Commission) § 401(a) (Enforcement of Federal Communications Act and orders of Commission) § 406 (Same; compelling furnishing of facilities; mandamus)

b - USC, Title 49: § 19a(1) (Mandamus to compel compliance

with Interstate Commerce Act) § 20(9) (Jurisdiction to compel compliance with interstate commerce laws by mandamus) c - USC, Title 28, former: § 71 (Removal of suits from state courts)

§ 72 (Same; procedure) § 73 (Same; suits under grants of land from different states)

§ 74 (Same; causes against persons denied civil rights)

§ 75 (Same; petitioner in actual custody of state court)

§ 76 (Same; suits and prosecutions against revenue officers)

§ 77 (Same; suits by aliens)

§ 78 (Same; copies of records refused by clerk of state court)

§ 79 (Same; previous attachment bonds or orders)

§ 80 (Same; dismissal or remand)

§ 81 (Same; proceedings in suits removed)

§ 82 (Same; record; filing and return)

§ 83 (Service of process after removal)

Both Cases are based on Clear Federal Questions (30 plus Federal Questions were presented to the United States District Court - District of Nevada and to the Ninth Circuit in Both cases) and further based on Federal Diversity which was not contested or and issue at the Oral Arguments in either case.

As both cases are separate and individual, the combining of the two (2) separate cases for the specific reasoning to remove them from a Federal Court once again deprives the Appellant, Defendant the Constitutional Rights of due process on these two (2) separate and

**individual cases and literally railroads the Appellant,
Defendant in to a non defensible position.**

**The United States District case numbers and correspondi
ng Ninth Circuit Case numbers are given;**

1 - CITIBANK SOUTH DAKOTA

DISTRICT COURT CASE NUMBER CV-S-04-0988-RJC

and

NINTH CIRCUIT CASE NUMBER USCA NO 04-17117

2 - FIRST NATIONAL BANK OF OMAHA

DISTRICT COURT CASE NUMBER CV-04-0987-RJC

and

NINTH CIRCUIT CASE NUMBER USCA NO 04-17048

EXHIBITS SUPPORTING FACT OF FEDERAL QUESTIONS

27 - Appellee, Plaintiffs violations of USC Title 18 Section 1001 and the Subsequent violations by Judge Robert Jones clearly and maliciously have violated the Appellant, Defendant's *Constitutional Rights*. These are irreparable damages to the Defendant. These violations have illegally negated any Defense or Counterclaim/s by the Appellant, Defendant.

28 - Appellee, Plaintiff's violation of USC Title 42 Chapter 20 Chapter 20A Clearly the Appellant, Defendant's *Constitutional Rights* have been violated in many areas and further by the fact that the Appellant, Defendant *has clearly been discriminated against illegally for acting in a pro se capacity*. Further; failure to invoke the Court Order of Rule 56 is clear evidence of Judge Robert Jones failure to administer the laws as they are written. Clearly a *Constitutional Rights* violation.

29 - Appellee, Plaintiff's violation of Title 42 USC Chapter 21 Judge Robert Jones obviously is, for lack of a better word, incompetent, in this *Federal Law* and made no attempt to listen to the Defendant or to investigate this illegal filling of lawsuits by Appellee, Plaintiffs.

30 - Appellee, Plaintiff's violation of Title 42 USC Chapter 21A Evidence and the facts are that the Appellee, Plaintiff

CITIBANK SOUTH DAKOTA filed a False Report in violation of this law and the *Civil False Claim Act* with the U S Secret Service and the Las Vegas Police Fraud Department against the Appellant, Defendant. This also violated *Rule 56 , bad faith and filing false information includes FIRST NATIONAL BANK OF OMAHA for joining them.*

31 - Appellee, Plaintiff's violation of *USC Title 42 sec 4003* This Act along with definitions clearly shows by the evidence and by Failure of Appellee, Plaintiffs to provide validation and verification of a legitimate verifiable alleged debt and by Appellee, Plaintiffs illegally filed lawsuits under all cited laws herein that Appellee, Plaintiff's do not have any legal standings whatsoever in regards their alleged claims and illegally filed *extortionate lawsuits*. Further, Appellee, Plaintiff have violated *common law copy rights laws and Trade Name Laws* ; property owned by the Appellant, Defendant shows that Judge Robert Jones decisions were not based on facts or genuine issues or *Federal Jurisdiction* or *Federal Question* at all. Further, that Judge Robert Jones could not possibly have read the filings of the Appellant, Defendant and has conspired against the *Legal Rights and Constitutional Rights* of the Appellant, Defendant as has the Ninth Circuit Court of Appeals. The Appellee, Plaintiff is left without any Defense.

32 - Appellee, Plaintiff's violation of *Constitutional Law Article VI , Clause 2*, in regards Defendant's *Legal Rights*. *Rule 56* was clearly invoked by the Defendant and by the *U S District Court Orders* to Appellee, Plaintiffs and then ignored by Judge Robert Jones as if this law never existed

or was ever written. Appellee, Plaintiffs were clearly informed that they could not rely solely on the illegally filed lawsuit complaints but had to provide validation as required under Rule 56. Appellee, Plaintiffs failed to provide the required affidavits and failed to meet the 15 days allotted by the COURT ORDER of Rule 56 to so provide. This again is a violation of the Appellant, Defendant's given *Constitutional Rights* and in violation of the administration of *COURT ORDERS* and the Failure of Judge Robert Jones to administer the *Federal Laws*.

33 - Appellee, Plaintiff violation of *COMMON LAW COPYRIGHT LAWS*, Regards Appellant, Defendant's Val ued properties - *U S Codes - Copy Rights Section 1114 (1) (a) - U S Codes - Copy Rights Section 1125(1)(A)* These clearly fall under *Federal Question of Jurisdiction*.

34 - Appellee, Plaintiff violations of *Constitutional Rights and Civil Rights Laws. The Bill of Rights and the 13th and 14th Amendments* have clearly been violated by Appellee, Plaintiffs and have caused irreparable harm to the Appellant, Defendant. These violation have been ignored by Federal Court Judge/s based on what can only be determined as personal reasons and not based on *Federal Law* or what is morally correct and ethical or just and equitable under all laws.

35 - Appellee, Plaintiff's is guilty of violations of *RICO Laws* in regards extortion from Appellant, Defendant.

Clearly; a failure to validate and alleged debt is *Extortion under Rico Laws*. Appellee, Plaintiff have refused to validate

and verify their alleged claim/s of debt against the Appellant, Defendant against all laws cited herein.. Appellee, Plaintiffs have filed illegally contrived lawsuits in violation of Federal Laws. Appellee, Plaintiffs are without legal standings. Appellee, Plaintiffs are guilty of *Misrepresentation and Fraud.* Appellee, Plaintiffs are guilty of *Extortion and Mail Fraud under all laws cited herein and attached.* Appellant, Defendant is not required to prove the *Rico Law* violations that are clearly *Federal Questions* that is the specific job of the Federal government. *Evidence* has been provided of *Rico law* violations by the Appellant, Defendant and the Federal Government must act on this evidence.

The Question now asked is why the Federal Courts are claiming lack of jurisdiction and attempting to strip the Appellant, Defendant of all legal grounds from and illegally filed Extortionate Lawsuit/s by rich Bank/s that continually violate Federal Laws.

AFFIDAVIT

The undersigned affiant, being duly sworn on oath, deposes and says: That he/she is an officer of the below named financial institution, a nationally chartered commercial bank or lending institution or organization purchasing promissory notes, hereinafter called bank. That, as an officer of the bank, he/she has the authority to execute this affidavit on behalf of the bank and to bind the bank to its provisions. It is understood that an exchange is not a loan. It is understood that the borrower's promissory note is not used to fund any check. It is understood that the bank does not record the promissory note as a bank asset offset by a bank liability. It is understood the bank complies with and follows the Federal Reserve Bank's policies and procedures. It is understood that the bank does not use the same or a similar bookkeeping entry to record the promissory note as a loan to the bank. It is understood that when banks participate in granting loans the economic effect is not the same or similar to stealing, counterfeiting, or a swindle. Banks who follow the Federal Reserve Bank's policies and procedures deny customers neither equal protection under the law, nor money, nor credit. The bank fully discloses to each and every borrower all material facts concerning if the borrower provides the funds to issue the bank loan check or if other depositors or investors

fund the bank loan check. It is understood that the one who funded the loan should be repaid their money. It is understood that cash is the money and a bank liability indicates that the bank owes cash. I agree that if I have made a false statement regarding bank loans, then any and all loans or alleged loans issued or purchased at the bank are forgiven, without recourse, and shall immediately be considered null and void. Signed under penalty of perjury.

Signature	of	Bank	Officer
Print	Name	of	Bank
Officer			

Name	of	Bank:
Address	of	Bank:
City/State/Zip:		

Sworn to and subscribed before me this ____ day of _____, 20____.

Signature	of	Notary	Public:
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Page 2 of 2 Affidavit

and Page 8 of 8
EXHIBIT 16A

EVIDENCE of Liability of Collusion and Conspiracy

FIRST NATIONAL BANK OF OMAHA through it's own choice of Free Will agreed to Judge Robert C Jones ORDER for Oral Arguments to be combined with that of CITIBANK, SD. in contrast to the Defendant oppositions for Federal Law violation/s of both Plaintiffs.

Therefore, collusion and conspiracy now exist and FIRST NATIONAL BANK OF OMAHA is now not only liable for their own violations of Federal laws and all other laws cited herein, they are equally liable for the additional violation of Federal Laws and other laws violated by CITIBANK, SD. Further, CITIBANK, SD attorney spoke on behalf of FIRST NATIONAL BANK OF OMAHA.

Collusion exists when two or more parties conspire against another as is the case herein.

Conspiracy exists when damage is intended on another as in these cases.

Judge Robert C Jones and the Ninth Circuit Court of Appeals judges were in error for allowing the combining of these cases due to the magnitude of Federal Law violations by both of the Plaintiffs and clearly have accepted the liabilities stated herein as a party thereof that was opposed by the Defendant in these cases.

EXHIBIT 17A

CONCLUSIVE PROOF AND EVIDENCE OF EXTORTION

The herein Cited Laws, Federal, Common, Public, Statues , Acts, Rules and Rights have clearly demonstrated to any Court that the Plaintiff/s have brought forth and extortionate lawsuit/s in violation of these Cited Laws and Cited Cases and previous U S Supreme Court Decisions.

A claim made without valid verification can not and may not be considered by any court to have any legal standing.

A claim made in violation of these Citing of laws and cases has no place in the court systems as it completely wastes the Courts time and adds unneeded expense to the Courts and participants.

These types of attacks are malicious and damaging and have been made without any legal justifications.

Further, the Laws and Cases cited clearly shows that if there is no contract and or no legal validation and verification their can be no justifiable claim made. Further, That these cases are to be deemed frivolous and without merit.

The Plaintiff/s have had one (1) year and six (6) months to provide these legal validations and have failed to verify and validate their claims in this period of time. Therefore, their claims are of and extortionate nature and this include s additional charges of Mail Fraud and Copy Right Law vio

lations and Mail Harassment. and Rico Law Violations.
In all previous cases of this type, the cases have been dismissed with prejudice as cited by laws and cases herein.

The Federal Laws clearly outweigh State Laws due to Diversity and Federal Questions and Constitutional Rights protection and outlined by the Citing/s herein

The Burden of Proof is on the Plaintiff/s and not on the Defendant and the Plaintiff/s time has expired to provide such Proof of validation which was required within the first 60 days of their claim/s as so stated in Federal Laws, Acts, Statutes and Rules. The Plaintiff/s failed to validate or verify within the allotted time period and have failed to validate or verify in the past 1 year and 6 months.

NO PROOF of CLAIM is clear evidence of A CLAIM with extortionate intents done maliciously and in a harassing and illegal manner in violation of the herein stated Federal Laws.

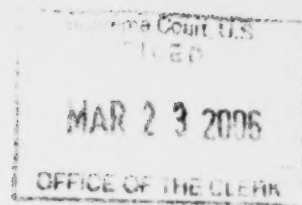
Validation and verification requires either a written contract or and affidavit made under oath with penalty of perjury from only the Plaintiff/s of the claim/s made. There is no other legal acceptable form of verification. as proven by the citing/s herein. Plaintiff/s have refused to validate who the Original creditor might be. Obviously, it is not the Plaintiff/s or they would have complied with the Federal Laws as they are so required to follow and obey.

Simply put , No proof, No Claim.. Dismissal with prejudice.

2 of 2

EXHIBIT 18A

NO. 05-796



**IN THE
SUPREME COURT OF THE UNITED STATES**

XENIA C GUAM © , et. al., pro se,

Petitioner (s)

v

**United States Court of Appeals for the Ninth Circuit;
Before Leavy, McKeown, and Berzon, Circuit Judges,
Case - USCA NO 04-17048 and United States District
Court - District of Nevada; Robert C Jones, United States
District Judge, Case - CV-S-04-0987-RCJ
and Appellee, Plaintiff, **FIRST NATIONAL BANK
OMAHA****

Respondent (s)

**PETITION FOR REHEARING
for
WRIT OF CERTIORARI CASE Denied
U S Supreme Court . Case 05-796**

Petitioner (s)

**XENIA C GUAM © , et. al., pro se,
1763 Cherokee Ln
Las Vegas, Nevada 89109
(702) 275-2356**

I

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II

TABLE OF AUTHORITIES

FEDERAL FAIR BILLING ACT

FEDERAL FAIR DEBT COLLECTION ACT

FEDERAL FAIR CREDIT REPORTING ACT

**FEDERAL LAW ; TITLE 47 MANDATES FEDERAL
JURISDICTION**

THE CONSTITUTION OF THE UNITED STATES

COPYRIGHT LAWS

PUBLIC LAWS

CITED CASES;

1 - Merchants' Bank v. Baird 160 F. 642, 90 C.C.A. 338, 17
L.R.A. (N.S.) 526.....

2 - First Nat. Bank v. Nat. Exchange Bank, 92 U.S. 122, 128,,
174 U.S. 364.....

3 - State v. Neilon, 73, Pac. 3211, 43 Ore. 168.....

4 - Farmers and Miners Bank v Bluefield Nat'l Bank
11F 2d 83,271 U.S. 669.....

5 - Howard & Foster Co. v. Citizens' Nat. Bank of Union.,
33 S.C.202, 130 S.E. 758.....

CITED CASES CONTINUED;

- 6 - Norton Grocery Co. v. Peoples' Nat. Bank,
144 S.E. 501, 151 Va 195.....
- 7 - First Nat. Bank v. Nat. Exchange Bank, 92 U.S. 122, 128;
- 8 - California Bank v. Kennedy, 167 U.S. 362, 367;.....
- 9 - Concord Bank v. Hawkins, 174 U.S. 64.....
- 10 - Wagner v. Central Banking & Security Co., 249 F. 145, 161
C.C.A. 197.....
- 11 - People's Bank v. National Bank, 101 U.S. 181, 25 L. Ed.
907.....
- 12 - Zinc Carbonate Co. v. First National Bank, 103 Wis 125, 79
NW 229.....
- 13 - American Express Co. v. Citizens State Bank, 194 NW
430.....

**UNITED STATES SUPREME COURT CASES and related
Cases Cited are relevant to Points of Authorities and are
directly relevant and related to these cases presented.
MANY Additional Cases have been cited within contents
of the writ of certiorari .**

**This Court has not upheld these crucial laws which have
been violated by the Respondent/s and the Petitioner has
provided conclusive evidence to the Courts of these viola-
tions by the Respondent/s. This Court should address the
application of the Equal Protection Clause.**

INTRODUCTION

On February 27,2006 this Court denied a petition for writ of certiorari on case number 05-796. By this petition I seek a rehearing from that decision.

OVERLOOKED OR MISCONSTRUED FEDERAL LAWS

The violations of the Federal Fair Billing Act, and The Federal Fair Debt Collection Act by the respondents has been well documented and supported in all courts by conclusive evidence and Exhibits. The Federal Court systems including this Court and State Courts have failed to administer and uphold these Federal Laws therefore disallowing equal justice to this petitioner. under Federal Laws and the Constitution.

RESPONDENT/S CURRENT VIOLATIONS

Additionally, the respondents have violated the Federal Fair Credit Report Act which again is supported by evidence from credit reporting agencies.reports.

DENIAL OF EQUAL JUSTICE UNDER THE LAW

The petitioner has adhered to and followed all Federal and State laws and simply wants those same Federal and State laws to be upheld by the Federal Courts and the respondent/s. The respondent/s have failed to comply with any Federal or State laws and the petitioner is left without protection under the law.

THIS COURT HAS IGNORED THE EVIDENCE

Full documentation and supporting Exhibits have been given to the Courts and this evidence has been ignored by the Courts unjustifiably and without cause.

**FAILURE OF THE FEDERAL COURTS TO ADMINIS-
TER IT'S OWN COURT ORDERS ISSUED; RULE 56
AND THE FOLLOWING POINTS OF AUTHORITY
AND**

**LAWS Specifically violated by RESPONDENT/S
FEDERAL JURISDICTION IGNORED**

EXHIBITS AND EVIDENCE of these violations has been
submitted to all Courts. SPECIFIC VIOLATIONS;

BY POINTS OF AUTHORITY

- 1 - Rule 28 USC Part IV Chapter 85 sec. 1332
- 2 - Rule 12 USC (b)(1)(2)(3)(6) and Rule 12 USC (b)56
- 2(a) - RULE 56
- 2(A) - U S C Title 47 Section 227 violations of Telephone usage.
- 3 and 3 (a) - PLAINTIFF 'S FAILURE TO SIGN AFFIDAVIT
UNDER OATH VERIFYING SOURCE OF FUNDS - FEDER-
AL LAW VIOLATION (Required by ReSpondent/s)
- 4 - Plaintiff Silence of Acquiescence is Misrepresentation
- 5 - Violations of Civil False Claim Act
- 6 - USC Title 28 Part IV Chapter 89 sec 1446
- 7 - Title 18 USC 241
- 8 - UCC Article 1, Part 1 ,1 -107
- 9 - UCC Article 1 Part 2 , 1-203
- 10 - Title 12 Chapter I sec 226.13, \27\, \28\, \29\, Page 215
(d) (1), \30\ (2)
- 11 - FTC Public Law 93-495 October 28, 1974 (2)
- 12 - FTC Public Law 93-495 October 28, 1974 (i)(e)
161(a), 161(a)
- 13 - Title 15 USC 1692, Title 15 USC 1692g ,809

Continued

- 14 - Title 15 USC Section 1666a. (a),(b),(2)
- 15 - Title 28 USC Sec 1343 (a)(3)
- 16 - Title 28 USC 1441, (a)(b)(c)
- 17 - *Ultra Vire* - See Table of Authorities and contents
- 18 - Title 42 USC, 1983
- 19 - VIOLATIONS OF Administrative Law Act. Plaintiff's failure to exhaust.
- 20 - Title 18 U.S.C. 1964 also 18 U.S.C. 1341, 1343, 1961 and 1962
- 21 - Uniform Commercial Code ARTICLE 3, PART 3 § 3-305 and NRS 104.3305 UCC Code adopted by State of Nevada (A),(b)(1),(i),(ii),(iii),(iv),(2),(3),(b),(A),(1),(a),(2),(a),(3),(c),(d)
- 22 - Truth in Lending Act - Regulation Z and also No Disclosure
- 23 - Constitutional Laws - 1st Amendment ,4th Amendment and 14th Amendment
- 24 - Contract Laws - No contract, no disclosure, no consideration, Misrepresentation and Fraud - Violation of USC 15 Section 1692(g) failure to validate
- 25 - Civil Laws -COMMON LAWS - Harassment , Bad Faith, impeding due process of law
- 26 - VIOLATIONS OF Federal Fair Billing Act Law
- 27 - VIOLATIONS OF Federal Fair Debt Collection Act
- 28 - VIOLATIONS OF Federal Fair Credit Report Act
- 29 - Illegal Unjust Enrichment via *Ultra Vires*
- 30 - Breach Of Fiduciary Duties
- 31 - UCC 3 104
- 32 - Nevada NRS title 55 Chapter 668

Continued

- 33 - NRS 15.010 Verification of pleadings (Nevada State)
- 34 - Title 12 USC 227.13
- 35 - Title 12 USC Vol 3 Parts 200 - 220
- 36 - Title 12 USC Sec 1955
- 37 - Title 15 USC 1681s-2(b)(1)
- 38 - Standards For Motion To Dismiss - See Decisions
- 39- Credit and Banking Laws Regulation AA
- 40 - Bill of Rights
- 41 - Banks and Banking Title 12 Chapter V Part 563c Subpart A Sec 563c.1
- 42 - BPub 621 - Richard Shell Professor of Legal Studies and Management - FRAUD
- 43 - The World Bank Group 1.15
- 44 - Title 18 Section 1001
- 45 - Title 42 USC Chapter 20 Chapter 20A
- 46 - Title 42 USC Chapter 21
- 47 - Title 42 USC Chapter 21A
- 48 - Title 42 USC sec 4003
- 49 - VIOLATION OF HARASSMENT LAWS
- 50 - Constitutional Law Article VI , Clause 2
- 51 - Illegal Third Party Involvement; Federal Fair Billing Act and Federal Fair Debt Collection Act
- 52 - VIOLATING COMMON LAW COPYRIGHT LAWS
- 53 - Plaintiff has failed to produce or provide evidence that their violations of laws is disputed BY PLAINTIFF.
- 54 - Plaintiff has failed to produce any legal evidence and proof of claim/s.
- 55 - VIOLATION OF CIVIL RIGHTS LAWS
- 56 - Plaintiff's Failure to Respond to dispute of Defendant

- 57 - Plaintiff's Failure to Respond to Default Notice of Defendant
- 58 - Plaintiff's Failure to Respond to Late Payment Notice given by Defendant
- 59 - Violation of Nevada Supreme Court Rules and Federal Laws (Nevada Law)
- 60 - UCC Article 1 Part 2 , 1-201 violations by Plaintiff
- 61 - Breach of Contracts by the Plaintiff
- 62 - Punitive Damages Act violations by Plaintiff
- 63 - Federal Laws over State Laws - Plaintiff has violated both Federal and State Laws
- 64 - Commercial Laws - AFFIDAVITS - Plaintiff has violated these laws
- 65 - **Fraud - UCC Laws - RICO Laws - NRS 104 - Scam of Plaintiff (Federal and Nevada State Laws)**
- 66 - Federal Rules of Civil Procedure - Rule 41 - Dismissal 2 (b)
- 67 - First Amendment of the Constitution in part.
- 68 - Fourth Amendment of the Constitution in part
- 69 - Plaintiff Proven Failures to validate, contract Fraud and illegally filed lawsuit
- 70 - Plaintiff's violations of Public Laws Section 162, 161(a) and others
- 71 - Plaintiff Misrepresentations of Contract and violations of GAAP Principals, UCC
- 72 - **Bills of Credit are illegal - Extortion and Mail Fraud - RICO Law Violations**
- 73 - U S Codes - Copy Rights Section 1114 (1) (a) - Plaintiff's Fraud is Deception

Continued

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74 - U S Codes - Copy Rights Section 1125(1)(A)- Plaintiff's Fraud is Deception

75 - Bill of Rights - Amendment I, Amendment VI - Right to counsel

76 - Plaintiff has violated Fed. Civ Rule 37 by failure to provide signed Affidavit under oath with penalty of perjury

77 - Plaintiff's Mail Harassment - Decisions and Laws

78 - Plaintiff violation of Nevada Law CHAPTER 600 TRADE-MARKS, TRADE NAMES AND SERVICE MARKS GENERAL PROVISIONS and No Usury law in Nevada for Interest rates charged (Nevada Law)

79 - Nevada NRS 200.571 Harassment: Definition; penalties.

80 - Plaintiff's violation for Non Payment of Debt on Contract " Special legal Notice" owed to Defendant.

81 - Plaintiff Failure to Sign Affidavit " Affidavit Required for validation.

82 - Relief - Fraud - Contract - Affidavit

83 - Plaintiff's violation of Federal Rules of Civil Procedure Rule 11 after filing illegally filed lawsuit

84 - False Reports - violation of NRS 207.280

85 - AUTOMATED TRANSACTIONS - Nevada NRS 719.310

86 - ELECTRONIC TRANSACTIONS (UNIFORM ACT) NRS 719.320

87 - U S Secret Service and Las Vegas Police Record of event. Federal Violation False Claim Act

88 - Plaintiff's Failure to follow US Secret Service directive to stop contacting Defendant. - Evidence Tampering

90 - Filing illegal Extortionate Lawsuits against Federal Laws

91 - Filing False Look alike Documents

FAILURE OF ALL FEDERAL COURTS TO UPHOLD FEDERAL LAWS AND THE CONSTITUTION OF THE UNITED STATES

IT IS THE DUTY OF THE FEDERAL COURTS AND IT'S
JUDGES AND JUSTICES TO UPHOLD FEDERAL LAWS
AND THE CONSTITUTION OF THE UNITED STATES.

FAILURE IN ANY MEASURE simply means that United
States Citizens are truly without equal justice and that the
Federal systems are not designed for protection and equal
justice for all under the law.

The Petitioner is not an attorney but deserves equal justice
and protection under the laws and Constitution of the United
States. **This Court has failed to provide equal protec-
tion and justice under the Federal Laws and Constitution
of the United States.**

The Respondents, a wealthy bank and their attorneys
have been allowed to violate the herein cited Federal
Laws at will with no recourse from the Federal Courts
whatsoever.

They have been allowed to file EXTORTIONATE law-
suits and have failed at EVERY instance to provide proof
of their claim/s. Further, they have violated all cited Federal
Laws in regards the requirements for them to provide
such proof of claims. This travesty of unequal justice
affects every United State Citizen and that is of national
importance.

CONCLUSION

And En Banc rehearing should be granted so that all
Evidence and Facts will be handled appropriately under
Federal Laws and the Constitution of the United States.
Clearly the previous denials by this Court are substantial
errors of law and a denial of equal justice.
Clearly jurisdiction lies within the Federal Courts only
and is mandated by Federal USC Title 47 cited herein.

Respectfully submitted,

Petitioner (s)

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Case No 05-796

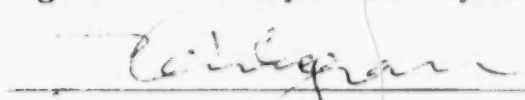
IN THE
SUPREME COURT OF THE UNITED STATES

Certification of Counsel

February 27, 2006

This is to certify that XENIA C GUAM © , et. al., pro se,
of 1763 Cherokee Ln , Las Vegas, Nevada 89109
(702) 275-2356 is currently representing herself in a pro
se capacity and that this certification is made in good
faith and not for delay.

Signed this 27th day of February, 2006


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